

CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT MUMBAI

ORIGINAL APPLICATION No. 1388/1994 AND 406/95.

Date of Decision: 8-7-98.

Karpurapu Vara Prasadarao,

Petitioner/s in both the O.A.

Applicant in person.

Advocate for the
Petitioner/s

V/s.

Union Of India & Others,

Respondent/s.

Shri S. S. Karkera for
Shri P. M. Pradhan,

Advocate for the
Respondent/s

CORAM:

Hon'ble Shri Justice R. G. Vaidyanatha, Vice-Chairman.

Hon'ble Shri D. S. Baweja, Member (A).

- (1) To be referred to the Reporter or not? *W*
- (2) Whether it needs to be circulated to other Benches of the Tribunal? *W*

R. G. Vaidyanatha
(R. G. VAIDYANATHA)
VICE-CHAIRMAN.

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CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NOS.: 1388/94 AND 406/95.

Dated the 8th day of July, 1998.

CORAM : HON'BLE SHRI JUSTICE R. G. VAIDYANATHA,
VICE-CHAIRMAN.

HON'BLE SHRI D. S. BAWEJA, MEMBER (A).

Karpurapu Vara Prasadarao,
Residing at -
Flat No. 12, Mukund Apartments,
Gandharya Nagari,
Nasik Road - 422 101.

Occupation :
Assistant Works Engineer (E).

... Applicant in
both the O.As.

VERSUS

Joint Secretary (C & C),
Ministry of Finance,
Department of Economic Affairs,
North Block,
New Delhi - 110 001.

2. The General Manager,
India Security Press,
Nasik Road - 422 101.

... Respondents in
O.A. No. 1388/94.

3. The Deputy General Manager,
India Security Press,
Nasik Road - 422 101.

AND

1. Finance Secretary (C & C),
Ministry Of Finance,
Department of Economic Affairs,
North Block, New Delhi 110 001.

2. The Superintendent Of Police,
C.B.I. (ACB), Tanna House,
Colaba, Bombay - 400 039.

... Respondents in
O.A. No. 406/95.

(By Advocate Shri S. S. Karkera for
Shri P. M. Pradhan).



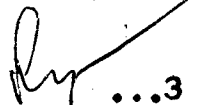
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{ PER.: SHRI R. G. VAIDYANATHA, VICE-CHAIRMAN }

These are two applications filed by the applicant challenging an order in a disciplinary case. Respondents have filed replies in both the cases opposing the applications. We have heard the applicant who appeared in person and the Learned Counsel for the respondents.

2. The facts necessary for the disposal of these two cases are as follows :-

The applicant, K. V. Prasadarao, was working as Assistant Works Engineer (Elect.) in the India Security Press, Nasik, during the relevant year, namely 1991. He has been working there even earlier and till now. But we are now concerned with the disciplinary enquiry in respect of an incident of 1991. The respondents issued a charge-sheet dated 08.06.1991. The applicant gave a reply. Then an enquiry was held in which three witnesses were examined on behalf of the department. The applicant examined himself in support of his case. He did not produce any defence witness. Then the Inquiry Officer gave a report that all the charges are proved against the applicant. Then accepting the Inquiry Officer's report, the Disciplinary Authority imposed the punishment of dismissal from service on the applicant. Being aggrieved by that order, the applicant filed an appeal before the Competent Authority. The Appellate Authority also confirmed the finding of misconduct against the applicant but modified the punishment to one of 'removal from service' from the order of 'dismissal from service' The applicant

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has filed the first O.A. No. 1388/94 challenging the punishment of removal from service.

During the pendency of the O.A., the Revisional Authority suo-moto reviewed the order of punishment and then modified the same by substituting a minor punishment of stoppage of five future annual increment with cumulative effect. Being aggrieved by this modified minor punishment, the applicant has filed the second application - O.A. No. 406/95.

In both the O.A.s, the applicant's case is common. His case is, since he is a Union Leader, he has been victimised by the department by issuing charge-sheet on false allegations and then imposing the punishment. It is also alleged that the disciplinary enquiry is vitiated by not following the principles of natural justice. The applicant is challenging the legality and validity of the disciplinary enquiry and the consequent imposition of punishment.

3. Respondents have filed reply justifying the action taken by them in initiating disciplinary enquiry against the applicant for misconduct. It is stated that enquiry has been held according to law and there are no illegalities or irregularities in conducting the enquiry. The respondents are, therefore, justified in imposing the penalty on the applicant.



4. There are three charges against the applicant. The first one is, that the applicant has unauthorisedly took briefs from certain office files and enclosed them in some complaints filed by him against one of the officers and thereby he has committed misconduct of unauthorised communication of official information, which amounts to misconduct under the C.C.S.(Conduct)Rules, 1964, which he did without taking permission of the competent authority.

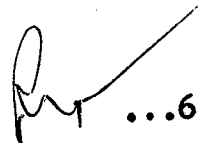
The second charge is that -on 23.03.1991 the applicant abused the Accounts Officer, Shri P. S. Murthy, at about 6.30 p.m. in front of his house and disturbed the peace, which is again a misconduct and misbehaviour.

The third and the last charge is that the applicant tried to obtain information of salary, G.P.F. particulars in respect of his superior officers from the Accounts Section without any proper permission/approval and thereby, he failed to observe office decorum, which amounts to misconduct and unbecoming of a Government Servant.

The applicant has filed a detailed written reply denying all the allegations and asserted that he has been viticmized by the department due to his union activities. The applicant who has appeared in person, has question^{ed} the legality and the validity of the disciplinary enquiry and the imposition of penalty. He also made some other submissions which are extraneous to the case. The Learned Counsel for the respondents has produced the enquiry file and he justified the action taken by the Management.

The point for consideration is, whether the applicant has made out any legal ground to quash the disciplinary enquiry and the punishment imposed on him.

5. Though the applicant argued the case personally, he was not able to pin point any legal defects in the disciplinary enquiry, except using the word 'violation of principles of natural justice' number of times. He was not able to point out any particular legal defect in the enquiry. Even in the application he has alleged that there was violation of principles of natural justice. A bald or vague allegation like this, will not be of any use. The applicant must plead and point out as to for what reasons he is saying that there was violation of principles of natural justice. Even at the time of argument, the applicant did not point out any particular ground to support this contention. Infact, we repeatedly asked him whether he was given sufficient opportunity to defend himself, whether he had opportunity to file his written statement, whether he was given permission to cross-examine the witnesses, etc. and for all these questions, his answer was in the affirmative. Therefore, the applicant had sufficient and reasonable opportunity of defending himself. He did not want to engage a Defence Assistant to assist him in the enquiry. He also did not produce any Defence Witness, except examining himself. Therefore, we do not find any ground for attaching the disciplinary enquiry on the ground of violation of principles of natural justice.

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6. One of the contentions of the applicant before us was that the Disciplinary Authority did not issue any show cause notice before accepting the report of the Enquiry Officer or imposing the punishment of dismissal from service. We do not find any merit in this contention. From the enquiry record made available to us by the Learned Counsel for the respondents, we find that the enquiry report was forwarded to the applicant for his information and to give any representation he wants to give. The applicant sent his representation after receiving the enquiry report. Then the disciplinary authority passed the impugned order. There is no further stage in law for the Disciplinary Authority to issue one more show cause notice to hear the applicant on the question of punishment.

7. Then the applicant attacked the findings of the Inquiry Officer and the Disciplinary Authority on the ground that it was a case of fabricated charge-sheet and two witnesses giving false evidences and some more contentions on merits of the case. The question whether the allegations in the charge-sheet are true or false, has to be decided by appreciating the oral evidence and documentary evidence produced during the enquiry. From the enquiry file we find that the Prosecution examined three witnesses, who are - S.S. Mudiliar, Currency Note Press; P. S. Geet, Accounts Clerk; and P.S. Murthy, Accounts Officer, in the same office. As far as the witness, Shri S.S. Mudiliar is concerned, the applicant made a submission before us that he did

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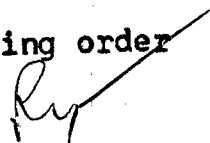
not cross examine him, since what all he stated was truth and he had no comments on his evidence. As could be seen from the Inquiry report, charge no. 1 is held proved on the basis of un-challenged evidence of Mudliar coupled with the documents produced by him. We have already seen what Article No. 1 of the charge-sheet is.

As far as Charges 2 and 3 are concerned, it depends upon the evidences of other two witnesses - Mr. Geet and Mr. Murthy.

The Inquiry Officer, Mr. A. M. Raool, who is the Chief Control Officer, has given a detailed report about the enquiry. He has discussed the case of the Prosecution, the Defence and the statement of witnesses in detail and has given a very detailed reasoned order in support of his findings. The enquiry report is dated 08.08.1993.

8. Then we have the order of the Disciplinary Authority, who has also written a speaking order accepting the findings of the Inquiry Officer and imposing a punishment of dismissal from service, as per his order dated 20.01.1994. The Disciplinary Authority was the then Deputy General Manager, India Security Press, Nasik Road.

Then we have the order of the Appellate Authority, namely - the General Manager, India Security Press, who by his order dated 24.06.1994, considered all the charges and wrote a speaking order




accepting the findings of the Inquiry Officer and the Disciplinary Authority but only altered the penalty to 'removal from service' which shall not be a disqualification for future employment under the Government, from 'dismissal from service'.

Then what is more, the Finance Secretary of the Government of India exercised suo-motto powers of revision/review and confirmed the findings of all the three subordinate authorities but reduced the punishment to one of stoppage of five future annual increments.

9. It is, therefore, seen that there are concurrent findings of fact recorded by the Inquiry Officer, Disciplinary Authority, Appellate Authority and the Reviewing Authority. The applicant's contention is, that this Tribunal should re-appreciate the evidences and hold that the charges are not proved and the two witnesses have given false evidence and that there are discrepancies in the evidences, etc.

We are afraid that we cannot accept this submission of the applicant to go into the question of appreciation of evidences. Now it is fairly settled by number of recent decisions of the Supreme Court that judicial review is only to examine the legality of the decision making process and not the legality of the actual decision. It is held that, the Tribunal, while exercising judicial review, cannot sit in appeal over the findings recorded by the Competent Authorities in

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the domestic enquiry. The Tribunal cannot re-appreciate the evidence and take a different view, even if another view is possible [Vide AIR 1996 SC 1232 (State of Tamil Nadu and Another V/s. S. Subramaniam) : 1997 (1) SC SLJ 226 (Government of Tamil Nadu & Others V/s. S. Vel Raj)] In the light of the law declared by the highest court of the land, we hold that this Tribunal cannot take up the exercise of discussing and appreciating the evidence adduced during the departmental enquiry. Even otherwise, since the applicant appeared in person and does not have the benefit of an advocate to defend him, we have examined the enquiry report and the evidence adduced during the enquiry and the documents produced. We are satisfied that the findings given by the Competent Authorities are based upon proper appreciation of the evidence, both oral and documentary. Further, we find that there is no illegality or irregularity in conducting the enquiry.

10. The applicant referred to many extraneous matters at the time of argument, which are wholly irrelevant and unconnected to the departmental enquiry. Infact, the applicant has filed number of Original Applications in this Tribunal where he has raised number of contentions regarding his other service disputes. Therefore, we do not want to consider anything in the present O.A. except the challenge to the departmental enquiry and the punishment imposed therein.


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After examining the entire materials on record, we are satisfied that there is no irregularity or illegality in the departmental enquiry so as to call for our interference. The finding recorded by the competent authority on merits, is borne out from the evidence on record and based on proper appreciation of the evidence. So far as the punishment is concerned, now the applicant must thank himself that the Reviewing Authority or the Revisional Authority, on humanitarian grounds, reduced the punishment to a very very minor punishment of stopping future increments for five years. Since such a minor punishment is given, the applicant cannot have any grievance about the quantum of punishment when once we hold that the finding of guilt recorded is justified on the materials on record.

11. The only other contention of the applicant before us is that, he was entitled to be promoted and his promotion has been denied.

In O.A. No. 1388/94, the first prayer is for reinstatement, but that prayer has now become infructuous since the Reviewing Authority has subsequently set aside the punishment of removal from service and imposed a minor punishment and what is more, the applicant has already been reinstated.

The second prayer is about payment of interest on the amount due to the applicant towards his salary, etc. This question also does not survive in view of the order passed by the Reviewing Authority to treat the period from the date of dismissal

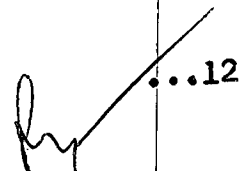
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from service till reinstatement, to be regularised by granting of leave admissible to him.

The third prayer is that the respondents should be directed not to harass the applicant in respect of his fundamental rights, etc. It is too general a prayer. This Tribunal is not concerned with enforcement of fundamental rights of the applicant. This Tribunal is constituted to decide service disputes of Central Government employees. If there is violation of fundamental rights of the applicant, he can approach the High Court or Civil Court or any other appropriate forum according to law. Even otherwise, no such blanket order can be given in favour of any party.

The fourth prayer is to quash the order passed by the Competent Authority. This prayer cannot be granted since we are upholding the orders passed by all the Competent Authorities, right from the Inquiry Officer to the Revising Authority.

The fifth prayer is that the applicant should be granted promotion to the post of Deputy Works Engineer. So far as this prayer is concerned, the respondents should consider the case of the applicant and grant him promotion, if he is otherwise entitled and as per rules. The Learned Counsel for the respondents submitted that the applicant was considered for promotion but was not given promotion in view of the disciplinary enquiry. Now, in view of the punishment

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imposed by the Revising Authority, which we are now upholding in this order, the respondents must consider whether in view of this punishment and on the basis of the service records, the applicant is entitled to promotion or not ?

The applicant has also prayed for seniority right from 13.11.1989. This is an independent and distinct prayer and has nothing to do with the disciplinary enquiry. The applicant did not address any argument on this prayer. No materials are placed on record on the question of seniority. Therefore, we hold that this question of applicant's claim for seniority is left open and liberty to the applicant to agitate the same according to law and subject to law of limitation.

Then the applicant has also prayed for costs, which he cannot get since he is failing on merits.

12. In O.A. No. 406/95 the first prayer is to quash the order of punishment dated 10.02.1995, which cannot be granted since we are upholding the findings and punishment of the departmental enquiry.


The second prayer is to consider the applicant's complaint dated 07.07.1994 and then direct the respondents to act according to law and book the dishonest person. The applicant did not address any argument regarding this prayer. Further, the said prayer has no bearing on the main question of punishment in the departmental enquiry. Hence, the question covered by prayer (2) is left open, giving

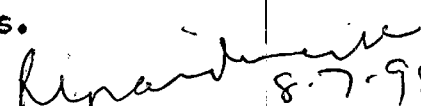
liberty to the applicant to agitate the same in the proper forum, subject of-course, to the law of limitation.

The third prayer is about cost^s, which cannot be granted, since we are upholding the findings and punishment imposed during the departmental enquiry.

13. In the result, both the O.As. are disposed of as follows :-

- (i) The applicant's prayer for quashing the departmental enquiry and the punishment imposed on him, is hereby rejected.
- (ii) We hereby confirm the finding of guilt and punishment given by the competent authority in the departmental enquiry and further, the imposition of penalty by the Revising/ Reviewing Authority.
- (iii) We direct the respondents to consider the case of the applicant for promotion having regard to his service record, his eligibility, the punishment during departmental enquiry and all other circumstances into consideration and according to rules.
- (iv) All the other prayers are not granted subject to the observations made in the previous two paras (para no. 11 and 12).
- (v) In the circumstances of the case, there will be no order as to costs.


(D. S. BAWEJA)
MEMBER (A).


(R. G. VAIDYANATHA)
VICE-CHAIRMAN.