

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO:98/95

DATE OF DECISION: 23.6.2000

Shri Surendra Prasad Applicant.

Shri P.A.Prabhakaran. Advocate for
Applicant.

Versus

The Union of India and others Respondents.

Shri M.I. Sethna with Shri Vadhavkar. Advocate for
Respondents

CORAM

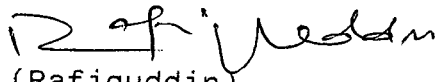
Hon'ble Shri L. Hmingliana, Member(A)

Hon'ble Shri Rafiquddin, Member(J)

(1) To be referred to the Reporter or not? No.

(2) Whether it needs to be circulated to No
other Benches of the Tribunal?

(3) Library. Yes


(Rafiquddin)
Member (J)

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO:98/95

the 25th day of JUNE 2000

CORAM: Hon'ble Shri L. Hminglana, Member (A)
Hon'ble Shri Rafiquddin, Member (J)

Surendra Prasad
Residing at
3218/224, Sector I
Kane Nagar, CHS Colony
Bombay.

...Applicant.

By Advocate Shri P.A. Prabhakaran.

V/s

1. The President of India through
Secretary, President's Secretariat,
Rashtrapati Bhavan, New Delhi.
2. Secretary (Estt.III)
Ministry of Health and
Family Welfare, Nirman Bhavan,
New Delhi.
3. Director,
Family Welfare Training &
Research Centre, 332,
S.V.P. Road, Bombay.
4. Dr. (Mrs.) Indira Kapoor
(then Director)
D-6, Simila House,
Nepean Sea Road, Bombay.
5. Dr. S.B. Taranekar,
Deputy Director
Family Welfare Training &
Research Centre 332,
S.V.P. Road, Bombay.
6. Mrs. Arti Mulekar,
Cashier,
Family Welfare Training &
Research Centre, 332
S.V.P. Road, Bombay.
7. Mr. Tukaram Bhogle
(then Store Keeper)
Family Welfare Training &
Research Centre, 332,
S.V.P. Road, Bombay.

...Respondents.

By Advocate Shri M.I. Sethna with Shri Vadhavkar.

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(O R D E R)

{Per Shri Rafiquddin, Member (J)}

The applicant is challenging the order dated 30.9.1991 (Exhibit A 2) passed by the Director, Family Welfare Training and Research Centre Bombay (Respondent No.3), the order dated 18.5.1994 passed by the Reviewing Authority. By the said order dated 30.9.1991 a recovery of Rs. 300/- for alleged loss caused due to wilfull act of the applicant has been ordered. The Review application filed by the applicant against the penalty order has been rejected. The applicant has also sought a direction to the respondents to refund the sum of Rs. 300/- with interest.

2. The applicant is working as Social worker at Family Welfare Training Centre, Bombay. His services are utilised at Family Welfare Training and Research Centre at Deonar as well as at Khetwadi.

3. It appears that while working at Deonar Centre, the applicant was served with memorandum dated 4.9.1991, which is extracted as under:

OFFICE MEMORANDUM

Shri Surendra Prasad, Social Worker Instructor, is directed to refer to the incident that took place on 30.8.1991 afternoon in the room of Shri T.R. Bhogle, Store Keeper, at this institute's Training Centre at I.I.P.S. Compound, Deonar. The Cashier Smt. A.A. Mulekar was disbursing salaries at the given time and at the given place. When Shri S. Prasad entered the room, he demanded increment of salary from the Cashier. When she told him that this month's salary of Shri Surendra Prasad

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does not contain the increment and asked khim to enquire from either the pay bill clerk or the Head Clerk about the same, he suddenly started shouting at her. He also demanded H.R.A. from her and started threatening her. At the same time Shri S.Prasad struck the glass table top on the Store-Keeper's table with his fist with such a force that the glass table top was completely broken. The incident was witnessed by many staff members of the institute.

Shri S.Prasad, Social Worker Instructor, is therefore charged with:

1. threatening the Cashier and preventing her from performing Govt. duties.
2. using abusive language in the office premises
3. disturbing the peace of the office, and
4. causing wilful loss to Govt. property.

Shri S.Prasad is hereby asked to submit his explanation within 7(seven) days of the receipt of this memo. If he fails to submit his explanation within the stipulated period, it will be presumed that he has nothing to say in the matter and necessary disciplinary action will be taken against him.

Sd/

(DIRECTOR)

F.W.T. & R.C. BOMBAY

The applicantg was asked to submit his explanation within 7 days of the receipt of the memo. It appears that on receipt of the aforesaid memo the applicant submitted an application for supply of zerox copy of the statement made by the staff. However this

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application of the applicant was rejected because the charges were based on the statement made by the staff. Hence the copy of the statement was not required to be supply to the applicant. The applicant thereafter submitted another application on 12.9.1991, in which he re-iterated his demand for copy of the statement of the staff. He also denied the allegation made against him. Respondent No.3 after considering the reply of the applicant passed the impugned order that he had arrived on the conclusion that the applicant had broken the glass table top on 30.8.1991. Accordingly in exercise of the power conferred under Rule 11 of CCS(CCA) Rupes ordered for recovery of loss caused due to wilfull act of the applicant amounting to Rs.300/-.

4. The applicant preferred an appeal against the aforesaid order which has been rejected by the concerned authority.

5. The applicant has mainly challenged the impugned orders on the ground that the orders are non speaking, the penalty order is against natural justice and has been passed in contravention to Rule 27(2) and the Appellate order is passed without hearing the applicant.

6. We have heard counsel for both sides and perused the records.

7. It is clear from the nature of the impugned penalty order that it is in the nature of a minor punishment. Rule 11 (iii) of CCS (CCA) Rules inter alia provides imposing of minor punishemnt in the nature of recovery from his pay of the whole or part of any pecuniary loss caused by him to the Government by negligence or breach of orders for good and sufficient reasons by the competent authority. In the instant case we find that there is

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no dispute regarding the incident in which table top glass was broken on 30.8.1991 and the applicant was involved in that incident. The case of the administration is that on the date of incident the applicant struck the glass table top with his fist and used some abused language against Smt. A.A. Mulekar and Shri T.R. Bhogle, Cashier and Store Keeper respectively. The case of the applicant on the other hand is that he did not broke table glass intentionally and it was broken while Shri Bhogle who was standing behind Smt. Mulekar's chair moved in the narrow space between table and cupboard and tried to squeeze himself without the knowledge of the applicant. As a result the applicant was pushed, who in order to balance himself put his hand on the table and with the impact of the weight the table glass broke.

8. Thus there are two versions of the incident. The administrative Officer after considering the complaint by Smt. Mulekar found her version correct and imposed the penalty in question. Since the conclusion by the Enquiry Officer has been formed on the basis of material before him, we do not find it proper to review the same or upset his finding unless it is found that it is based on no evidence.

9. So far as the question of denial of natural justice is concerned, we find that the applicant was given an opportunity to explain the allegations which he simply denied. It cannot be said that there was any violation of principle of natural justice during enquiry proceedings.

10. As regards the non supply of the copies of statement of witnesses it appears that no such statement was recorded in writting and show cause was issued on the basis of oral statement

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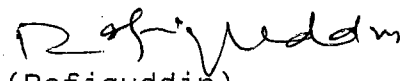
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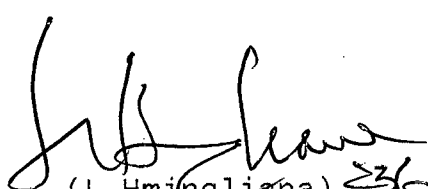
of witnesses. Thus we do not find any irregularities in the enquiry which was conducted for the satisfaction of the Enquiry Officer whether there were good and sufficient reason to impose the penalty in question. Therefore we do not find grounds for quashing the penalty order.

11. As regards the order of the Appellate Authority it has been urged that the same has been passed without giving any reason and is a non-speaking order and deserves to be quashed. We do not find any force in this contention also because on perusal of the impugned order dated 18.5.1994 (Annexure A) the request of the applicant for non-recovery of Rs. 300/- being cost of the table glass from his pay was considered carefully but the same could not be exceeded to. Since the penalty order was in the nature of recovery of certain amount being cost of table glass it cannot be said that the appeal has been decided by a non-speaking order.

12. While parting with the case we find that some irrelevant allegations and counter allegations have been made by the applicant and the respondents, against each other, we do not consider it proper or relevant to consider those allegations in the present case because they are not necessary for the decision of the present OA.

13. The OA is dismissed. No order as to costs.


(Rafiquddin)
Member(J)


(L. Hmingliana) 2362000
Member (A)

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