

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIFUR BENCH, JAIPUR.

Date of Decision: 4.7.94.

OA 605/92

S.P. GARG

... APPLICANT.

Vs.

UNION OF INDIA

... RESPONDENTS.

CORAM:

HON'BLE MR. JUSTICE D.L. MEHTA, VICE CHAIRMAN.

HON'BLE MR. G.P. SHARMA, MEMBER (A).

For the Applicant ... SHRI R.N. MATHUR.

For the Respondents ... SHRI PRAVEEN BALWADA.

PER HON'BLE MR. JUSTICE D.L. MEHTA, VICE CHAIRMAN.

Heard the learned counsel for the parties. Mr. Mathur submitted that Annexure A-1, order passed by the disciplinary authority dated 11.6.92, is bad in law for the following reasons :-

- i) He submitted that it was not a part of the job of the applicant to perform the duties and he cannot be punished for any omission, if any, in the management of canteen,
- ii) He has also submitted that the disciplinary authority has not considered the enquiry report Annexure A-4 in detail.

He has been exonerated by the enquiry officer and it was the duty of the disciplinary authority to examine all the statements recorded and to appreciate them. It was also the duty of the respondents to refer the documents produced during the enquiry and it was also the duty of the respondents to give reasons for dis-agreeing with the enquiry officer.

2. We have gone through the order of the disciplinary authority. The disciplinary authority has not referred any statement or document on the basis of which he is forming the opinion. He has also not explained in the order that

he is differing and what are the reasons for differing with the enquiry officer. The disciplinary authority has jurisdiction to differ but when he differs, it is his duty to pass a speaking order and to give reasons for differing with the enquiry officer. We will not like to pass any detailed order in this case. We set aside the order Annexure A-1 dated 11.6.92 with a direction that the disciplinary authority shall pass a speaking order stating reasons for differing with the enquiry officer, if he wants to differ. He will be at liberty to accept the report of the enquiry officer ^{or} to differ from the enquiry officer after giving detailed reasons ^{and} examining the evidence recorded by the enquiry officer. The applicant will be at liberty to file a fresh OA if he aggrieved with the fresh order of the disciplinary authority, if any passed by him.

3. The OA stands disposed of accordingly, with no order as to costs.



(O.P. Sharma)
Member (A)



(D.L. Mehta)
Vice-Chairman