

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A. No.621/1987.

Dated: 5-12-1989.

Between

V.Ravindranathan

... Applicant

And

1. The Director, DMRL, Hyderabad.

2. Scientific Advisor to the
Raksha Manthri & Director General
Research & Development, ~~How Bazar~~ ... Respondents
ANUSANDHAN TATHA VIKAS SANGHATHAM,
'B' WING, SENA BHAVAN, NEW DELHI.

Appearance:

For the applicant : Mr.P.Gangaiah Naidu, Advocate

For the Respondents : Mr.E.Madan Mohan Rao, Addl.CGSC

CORAM:

The Hon'ble Mr.D.Surya Rao, Member (Judicial)

and

The Hon'ble Mr.R.Balasubramanian, Member (Admn.)

(JUDGMENT OF THE BENCH DELIVERED BY THE HON'BLE
MR.D.SURYA RAO, MEMBER (J).

The applicant herein, an employee of the Defence Metallurgical Research Laboratory, Hyderabad, has filed this Application for quashing the proceedings No.RD/Pers-7/95770/170/SO dated 23-3-1985 issued by the 2nd Respondent imposing upon him the punishment of withholding of one increment for a period of one year without cumulative effect. This order of punishment was preceded by a charge-memo. dated 3-1-1983 alleging that the applicant while functioning as Stores Superintendent in D.M.R.L.

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has failed to give ^asatisfactory explanation for the shortage of 26 kgs. of cobalt in the stocks in his custody and that thereby he has committed negligence of his official duties and responsibilities. It was further alleged that the said 26 kgs. of cobalt was recovered from the possession of Sri P.V.Rao, Stores Officer while trying to take out the stores from the premises of DMRL on 3-11-1982 and the applicant has, thus, in collusion with Sri P.V.Rao, attempted to pilfer the cobalt. After passing of the impugned order dated 23-3-1985, the applicant submitted a representation dated 20-5-1985 to the Scientific Advisor to the Raksha Manthri and Director General, Research and Development, New Delhi requesting to re-consider his case. This representation was treated as a Revision Petition to the President and rejected on 20-1-1986. Various contentions have been raised by the applicant questioning the order of punishment. It is contended that while the original charge is that there was shortage of cobalt, the order of the disciplinary authority is that he is guilty of dereliction of duty in that he has failed to maintain a proper account of items entrusted to him. It is further contended that no enquiry report was submitted to the applicant even upto 16-10-86 though the second respondent was to supply a copy of the enquiry officer's report even before passing the order of punishment. The further contention raised is that ^{when} the applicant took charge of the post of Stores Superintendent, there was no actual transfer of stores by actual weighing and as such it cannot be held that there was any shortage of stocks for which he is responsible.

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2. On behalf of the Respondents, a counter has been filed denying the various contentions raised by the applicant. It is admitted that the Enquiry Officer's report was supplied to the applicant ^{only} on 16-10-1986.

3. We have heard the learned counsel for the applicant Mr. P. Gangaiah Naidu and Mr. E. Madan Mohan Rao, Addl. Central Govt. Standing Counsel on behalf of the Respondents. It is contended by the learned counsel for the applicant that on merits there is no case for the department against the applicant in that it is not established that the applicant is guilty of the charge of shortage of stocks and as such no punishment could be imposed upon him. The other contention raised is that the procedure followed in the enquiry is not in accordance with the provisions of the C.C.A. Rules namely enclosing a copy of the enquiry officer's report to the order of punishment, has not been complied with. It is further contended that the matter is covered by the Full Bench decision of the Tribunal in Premnath K. Sharma's case as reported in 1988(6) ATC 904 and ~~1988(6) ATC 904~~ that the report of the Enquiry Officer ought to have been furnished before the disciplinary authority passed the order of punishment to enable the applicant to assail the findings of the enquiry officer before the disciplinary authority passed the order of punishment. The matter can be disposed of following the Full Bench decision of the Tribunal in Premnath K. Sharma's case (1988(6) ATC 904) wherein it was held as follows:

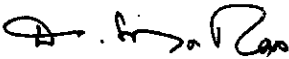
"Even after the 42nd amendment to Article 311(2) the enquiry cannot be said to conclude by the submission of an enquiry report. It continues till the disciplinary authority receives the entire material and reserves it for recording his findings on charges and imposes the penalty, if any. Before the matter is finally reserved for recording such finding, any material that is placed on record in the shape of the enquiry report must be given to the charged officer and he must be accorded a reasonable opportunity to make his representation failure to do so would amount to denying reasonable opportunity to the charged officer to make his representation in respect of charges levelled against him."

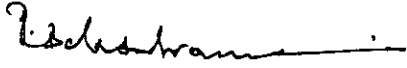
Admittedly, in the instant case, the Enquiry Officer's report has been given to the applicant only on 16-10-86 much after the order of punishment is passed. Following the aforesaid decision in Premnath K.Sharma's case, we hold that the order of punishment No.RD/Pers-7/95770/170/SO dated 23-3-1985 is quashed. This, however, will not preclude the respondents from further proceeding with the enquiry by enabling the applicant to make his representation against the Enquiry Officer's report and to complete the disciplinary proceedings from that stage. Since, in this case, the applicant has received a copy of the Enquiry Officer's report it would be unnecessary to direct the respondents to once again furnish a copy of the Enquiry Officer's report. If the respondents choose to continue the disciplinary proceedings, they are directed to intimate the applicant accordingly and to give him an opportunity to assail the correctness of the Enquiry Officer's report. They are directed to do so within one month from the date of receipt of this order. On receipt of such notice from the respondents, the applicant is directed to submit his representation against the Enquiry Officer's report within a period of one month thereafter and the disciplinary authority is further directed to dispose of the representation of the applicant within six weeks of the receipt of the same. As observed in the case decided by the Full Bench, nothing said herein would affect the decision of the disciplinary authority and we would hasten to add that this order of the Tribunal is not a direction to necessarily continue the disciplinary proceedings. That is entirely left to the discretion of the disciplinary authority.

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4. The learned counsel for the applicant also seeks to contend that the applicant has been denied increments and denied his right to promotion despite the punishment period having expired by 1-8-1986 and seeks a direction that suitable relief should be granted to him in respect of these matters. The relief asked for by the applicant in the application does not cover these matters. All that is asked for in the relief column is for quashing the impugned order dated 23-3-85. Since the reliefs now being asked during the course of arguments do not cover the relief sought in the application, we do not *propose to render any decision thereon.* approve ~~of the same.~~

5. In the result, the Application is allowed to the extent indicated in para 3 above. No order as to costs.


(D. SURYA RAO)
MEMBER (J)


(R. BALA SUBRAMANIAN)
MEMBER (A)

Dated: 5th December, 1989.
Dictated in open court.


DEPUTY REGISTRAR (2)
12/11/89

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To

1. The Director, DMRL, Hyderabad.
2. Scientific Advisor to the Raksha Manthri & Director General Research & Development, Anushandhan Tatha Vikas Sangathan, 'B' Wing, Sena Bhawan, New Delhi.
3. One copy to Mr. P. Gangaiah Naidu, 85, S.B.I. Officers Colony, Musarambagh, Hyderabad-36.
4. One copy to Mr. E. Madan Mohan Rao, Addl. CGSC, CAT, Hyderabad.
5. One spare copy.

5 No copy
12/12/89