

(60)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: AT HYDERABAD.

D.A.No. 712/89

DATE OF DECISION:-

T.A.No.

15/6/90 1990

Between:-

K.R.V. Krishnaiah

Petitioner(s)

Mr. G. Parameshwara Rao

Advocate for the
petitioner(s)

Versus

Jt. Secretary, Defence Dept., New Delhi
Respondent.

Mr. N. Bhaskara Rao

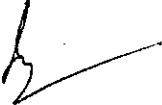
Advocate for the
Respondent(s)

CORAM:

THE HON'BLE MR. J. NARASIMHA MURTHY, MEMBER (J)

THE HON'BLE MR. R. BALASUBRAMANIAN, MEMBER (A)

1. Whether Reporters of local papers may be allowed to see the Judgment? *Nb*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgment?
4. Whether it needs to be circulated to other Benches of the Tribunals?
5. Remarks of Vice Chairman on columns 1, 2, 4 (to be submitted to Hon'ble Vice Chairman where he is not on the Bench) *Nb*


(HJNM)


(HRBS)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD (61)
BENCH AT : HYDERABAD

O. A. No. 712/89

Date of Order 15- 6- 1990

BETWEEN

Sri K.R.V. Krishnaiah

.. Applicant

Versus

1. The Union of India, represented by its Joint Secretary, Defence Department, Central Secretariat, New Delhi.
2. The Engineer-in-Chief, Army Hqrs., Kashmir House, New Delhi-11.
3. The Chief Engineer (Project), Factory, Parade grounds, S.P. Road, Secunderabad - 13. ..

Respondents

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APPEARANCE

For the Applicant : Sri G. Parameshwara Rao, Advocate

For the Respondents : Sri Naram Bhaskara Rao, Standing Counsel for the Respondents.

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CORAM

HON'BLE SHRI J. NARASIMHA MURTHY, MEMBER (JUDICIAL)

HON'BLE SHRI R. BALASUBRAMANIAN, MEMBER (ADMN.,)

(JUDGEMENT OF THE BENCH DELIVERED BY SHRI R. BALASUBRAMANIAN)
HON'BLE MEMBER (ADMN.)

This is an application filed under Section 19 of the Administrative Tribunals Act, 1985, by Sri K.R.V. Krishnaiah against Union of India and two others.

2. The applicant at the relevant point of time was Superintendent Gr.I and working at Gandhinagar in the State

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(Contd.....)

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of Gujarat. He was incharge of certain constructions. A charge memo dt.15.4.87 was issued to him alleging that the applicant did not exercise sufficient supervision on certain works. An enquiry was conducted and on receipt of the Inquiry Report the disciplinary authority inflicted the punishment of withholding of one increment without cumulative effect. The applicant preferred an appeal on 6.2.89 against this order of punishment dt.21.12.1988. The appeal had not been disposed off. It is the case of the applicant that the Inquiry Officer did not find him at fault and had given a clean chit and that the disciplinary authority ignoring the findings of the Inquiry Officer had imposed the penalty. This penalty had come in the way of his further promotion to the next grade of Executive Engineer. The applicant had made two prayers (a) that the punishment order be set aside and (b) that he be considered for promotion to the grade of Executive Engineer.

3. The Respondent has opposed the prayer. It is their case that the procedure required to be followed in a disciplinary case had been followed and that the punishment inflicted on the applicant was just. They have stated that the appeal dt.6.2.89 was disposed of by the appellate authority on 29.7.1989 upholding the action of the disciplinary authority.

4. We have examined the case and heard the learned counsel for the applicant and respondents. At the beginning of the hearing itself the learned counsel for the applicant admitted that there were plural prayers and that they had filed a separate O. A., in respect of the second prayer relating to promotion. Hence, this application will be confined only to the punishment order.



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5. We find from the records that the Inquiry Officer had gone into great detail and come to the final opinion reproduced hereunder.

"Considering the above mentioned findings it cannot be concluded that Charged Officer Sri KRV Krishnaiah, AE B/R has tendency of gross negligence of duty and lack of devotion towards the work."

The charge against the applicant was negligence as seen from inadequate exercise of supervision over works under his charge. The disciplinary authority had however disagreed with the findings of the Inquiry Officer and had stated the following as "reasons".

" a) The work has not been carried out to the laid down specifications resulting in abnormal leakage and ~~see~~ page of water in buildings;

b) The deterioration of roads is also due to the inadequate specifications and negligence in supervision of the road work;

c) There was undoubtedly some negligence in supervision of work as the over all quality of work achieved below the standard."

We are surprised at this. The disciplinary authority has statutory obligation cast on him particularly when he chooses to ~~deter~~ differ from the Inquiry Officer. Sub rule 2 of Rule 15 of CCS CCA Rules states

" The disciplinary authority shall, if it disagrees with the findings of the inquiring authority on any article of charge, record its reasons for such disagreement and record its own findings on such charge if the evidence on record is sufficient for the purpose."

The disciplinary authority has not only to record its reasons for disagreeing with the report of the Inquiry Officer but also record its own finding on the charge levelled against the applicant. The disciplinary authority has not indicated clearly item by item how and why

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he disagrees with the Inquiry Officer. He had cursorily stated that there was undoubtedly some negligence in supervision of work. How he has come to that conclusion in ~~the face of~~ ^{contrary to} the finding of the Inquiry Officer has not been mentioned. In this connection, we find three cases are of relevance

- a) Narayan Misra Vs. State of Orissa (SLR Vol.3 1969 P657) of the Supreme Court.
- b) Shanker Lal Vishwakarma Vs. Union of India (Jabalpur) ATR 1986 (2) CAT P 577.
- c) Om Prakash Vs. Union of India, 1988 (7) ATC 755 of Principal Bench.

The Hon'ble Supreme Court had observed that if the disciplinary authority wants to hold the delinquent official guilty of charge on which he had been acquitted by the Inquiry Officer, an opportunity should be given to explain after intimating him as to why the disciplinary authority has differed from the Inquiry Officer. The Jabalpur Bench has again held the same view. While upholding the powers of disciplinary authority to differ from the findings of the Inquiry Officer they had held that the disciplinary authority should give a further opportunity to hear the delinquent official to explain his case. The case disposed off by the Principal Bench, Delhi has greater similarity to the case before us. In the case before us also the disciplinary authority chose to differ from the report of the Inquiry Officer without evaluating the evidence on record and without giving any valid reasons in support of the view taken by him. He has just issued a laconic order disagreeing with the Inquiry Officer. There was another flaw. The witnesses cited by the disciplinary authority himself were not produced for examination/ cross-examination.

N.B.

To:

1. The Joint Secretary, (Union of India), Defence Department, Central Secretariat, New Delhi.
2. The Engineer-in-Chief, Army Head quarters, Kashmir House, New Delhi-11.
3. The Chief Engineer (Project) Factory, parade grounds, S.P.Road, Sec'bad-13.
4. One copy to Mr.G.Parameswara Rao, Advocate, Advocates' Association, High Court buildings, Hyderabad-500 002.
5. One copy to Mr.N.Bhaskara Rao, Addl.CGSC,CAT,Hyderabad.
6. One copy to Hon'ble Mr.R.Balasubramanian:Member;(A) CAT,Hyderabad.
7. One spare copy.

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The appellate authority has also acted in a cavalier fashion. We find from the disposal of the appeal that he had failed to appreciate the evidence properly and had just chosen to uphold the action of the disciplinary authority without giving any valid reasons as to why he also differed from the Inquiry Officer's report. His remarks—"reasons for disagreement with the findings of the Inquiry Officer given in order dated 21.12.'88 by disciplinary authority are just and sufficient. No further elaboration", are not the outcome of a careful application of mind. As to why the witnesses cited by the disciplinary authority could not be produced for examination / cross-examination the appellate authority has simply remarked that the Inquiry Officer could not wait indefinitely and had to conclude the proceedings without recording their evidence. It is surprising that he treats this essential step very lightly.

both

6. We find that the punishment inflicted upon the applicant in the above manner and the disposal of the appeal are illegal and accordingly quash the order of punishment dt. 21.12.1988 and the appellate order dated 2.9.89. There is no order as to costs.

MS

R. Balasubramanian

(J. NARASIMHA MURTHY)
HON'BLE MEMBER (JUDICIAL)

(R. BALASUBRAMANIAN)
HON'BLE MEMBER (ADMN.)

DT. 15th June 1990.

S. Venkateswara
Deputy Registrar (J)
26/6/90