

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.446/90.

Date of Judgment: 10-2-92.

B.Simanchal

.. Applicant

Vs.

1. The Secretary,
Min. of Defence,
South Block, DHQ P.O.,
New Delhi-110011.
2. The Chief of the Naval Staff
(For DCP) Naval Headquarters,
Sena Bhavan 'D' Block, DHQ P.O.,
New Delhi-110011.
3. The Flag Officer
Commanding-in-Chief,
Eastern Naval Command,
Naval Base,
Visakhapatnam-530014.
4. The Admiral Superintendent,
Naval Dockyard,
Visakhapatnam-530014. .. Respondents

Counsel for the Applicant : Shri G.V.Subba Rao

Counsel for the Respondents : Shri N.V.Ramana, Addl. CGSC

CORAM:

Hon'ble Shri R.Balasubramanian : Member(A)

Hon'ble Shri C.J.Roy : Member(J)

{ Judgment as per Hon'ble Shri R.Balasubramanian, Member(A) }

This application has been filed by Shri B.Simanchal under section 19 of the Administrative Tribunals Act, 1985 against the Secretary, Min. of Defence, South Block, DHQ P.O. New Delhi-110011 & 3 others with a prayer to quash the order of punishment issued vide No.PES/8401/9856 dated 21.12.88 by the Rear Admiral Superintendent, Naval Dockyard, Visakhapatnam and the subsequent appellate and other orders.

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2. While the applicant was functioning as a Plumber in the respondent organisation at Visakhapatnam he was served a major charge-memo under Rule 14 of CCS(CCA) Rules, 1965 on 20.3.86. An enquiry was conducted into the charges. Thereupon, the disciplinary authority imposed the penalty of removal from service on the applicant vide his order No.PES/8401/9856 dated 21.12.88. The applicant submitted an appeal to the Vice Admiral, Flag Officer, Commander-in-Chief, Eastern Naval Command, Visakhapatnam against the impugned order of removal from service. The appellate authority confirmed the punishment of removal from service vide his order dated 26.7.89.

3. The applicant contends that the punishment has been inflicted in exercise of the CCS(CCA) Rules, 1965 framed under Article 309 of the Constitution. It is his contention that this article is not applicable to Defence Civilian employees. Therefore, he questions the very validity of the rule under which he had been proceeded against. Aggrieved, the applicant has approached this Tribunal through this application.

4. The respondents have filed a counter affidavit and oppose the application.

5. We have examined the case and heard the learned counsels for the rival sides. There are two issues to be settled:

(a) Whether the CCS(CCA) Rules, 1965 are applicable to the applicant, and

(b) Whether there is any illegality in the disciplinary proceedings.

6. Regarding (a), this Bench had clearly held in the case of Shri CH.Narayacharyulu Vs. Secretary, Min. of Defence,

To


1. The Secretary, Min. of Defence,
South Block, DHQ P.O. New Delhi-11.
2. The Chief of the Naval Staff (For DCP)
Naval Headquarters, Sena Bhavan,
'D' Block, DHQ P.O. New Delhi-11.
3. The Flag Officer, Commanding-in-Chief,
Eastern Naval Command, Naval Base, Visakhapatnam-14.
4. The Admiral Superintendent, Naval Dockyard,
Visakhapatnam-14.
5. One copy to Mr. G. V. Subba Rao, Advocate, CAT. Hyd-
6. One copy to Mr. N. V. Ramana, Addl. CGSC. CAT. Hyd. Bench.
7. One spare copy.

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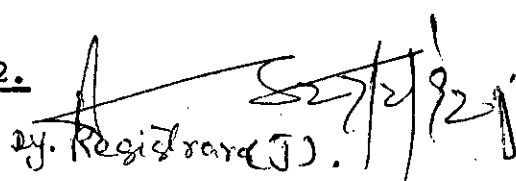
I O.A.No.303/90 and O.A.No.171/89 reported in [1990] 4 ATC 479 [that the CCS(CCA) Rules, 1965 are applicable to Defence Civilian employees. Hence, we hold that the CCS(CCA) Rules, 1965 are applicable to the applicant.

Regarding (b), we find from the order of removal from service dated 21.12.88 that the enquiry report was furnished to the applicant only alongwith the order of removal and not before and this attracts the law laid down by the Hon'ble Supreme Court in the case of Union of India & others Vs. Mohd. Ramzan Khan (AIR 1991 SC 476). Therefore, we quash the order of punishment as well as the subsequent appellate order. This, however, will not preclude the respondents from supplying a copy of the enquiry report to the applicant and give him an opportunity to make his representation and proceeding to complete the disciplinary proceedings from that stage. The application is allowed to the extent indicated above but in the circumstances we make no order as to costs. If the respondents choose to continue the disciplinary proceedings and complete the same, the manner as to how the period spent in the proceedings should be treated would depend upon the ultimate result. Nothing said herein would affect the decision of the Disciplinary Authority. At the same time, we hasten to add, that this order of the Tribunal is not a direction to necessarily continue the disciplinary proceeding. That is entirely left to the discretion of the Disciplinary Authority.


(R. Balasubramanian)
Member(A).


(C. J. Roy)
Member(J).

Dated 10th February, 1992.


Dy. Registrar (J).

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.

V.G.

THE HON'BLE MR. R. BALASUBRAMANIAN: M(A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY:
M(JUDL)

AND

THE HON'BLE MR. C. J. ROY : MEMBER(JUDL)

DATED: 10 - 2 - 1992

ORDER/JUDGMENT:

R.A/C.A/ M.A.No.

in

O.A.No. 446/90

T.A.No.

(W.P.No.)

Admitted and interim directions
issued.

Allowed

Disposed of with directions.

Dismissed

Dismissed as withdrawn

Dismissed for default.

M.A. Ordered/ Rejected

No order as to costs.

pvm.

Central Administrative Tribunal

DESPATCH

6/3/92

HYDERABAD BENCH