

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

D.A. 799/91. Dt. of Decision : 19-10-94.

R. V. Sharma

.. Applicant,

vs

1. Council of Scientific & Industrial Research, Rafimarg, New Delhi-110 001 rep. by its Director General.
2. The Joint Secretary, (Administration), CSIR, Rafi Marg, New Delhi-110 001.
3. The Director, Indian Institute of Chemical Technology (formerly 'Regional Research Laboratory') Uppal Road, Hyderabad-550 007. .. Respondents.

Counsel for the Applicant : Mr. N. Ramamohan Rao

Counsel for the Respondents : Mr. C.B. Desai, SC for CSIR

CORAM:

THE HON'BLE SHRI JUSTICE V. NEELADRI RAO : VICE CHAIRMAN

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

68

OA 799/91

I AS PER HON'BLE JUSTICE SHRI V. NEELADRI RAO,
VICE-CHAIRMAN I

JUDGEMENT

Heard Shri N. Ramamohan Rao, learned
counsel for the applicant and also Shri C.B. Desai
learned standing counsel for the Respondents.

2. It is an unfortunate case of an ^{Sarma} Adminis-
trative officer being faced with disciplinary
action for the ^{deed} ~~mis-conduct~~ of his sub-ordinate.
The applicant, while ~~he was~~ was working as Adminis-
trative officer was entrusted with the control
and supervision of the Cash Section as per Exhibit D1.
Though the said order does not specifically state
that the applicant ^{had to} ~~worked~~ as Drawing & Disbursing
officer (DDO), it was established that he was
actually discharging the duties of DDO.

3. It was noticed that the cashier inflated
the entries into the cash book in regard to the
amounts disbursed as per acquittance roll, and at
one time he had taken Rs. ~~4,650/-~~ ^{4,650/-} for remitting into
the Bank but he actually remitted Rs.3,000/- into
the Bank. When ^{The above} discrepancies had come to light,
charge memo. dated 25-9-87 with the following
2 articles of charge was issued to the applicant

Article I

That the said Shri R.V. Sarma while
functioning as Administrative Officer (Gr. I),
RRB Hyderabad with effect from 23rd October, 1981
committed misconduct inasmuch as that while he
was assigned the work of Drawing and Disbursing
Officer he did not exercise proper control by not
physically checking the cash in hand and not ensuring
proper maintenance of the cash book by the Cashier.
Thus he showed negligence and lack of devotion to
duty and thereby contravened Rule 3(1) (ii) of the
CCS (CCA) Rules, 1964 as made applicable to the
Council employees.

Article II

That the said Shri R.V. Sarma while functioning in the aforesaid office and in the aforesaid capacity committed mis-conduct in as much as he did not carry out monthly physical verification of cash as per cash and Accounts Manual requirement and thereby showed lack of devotion to duty and contravened Rule 3(1) (ii) of the CCS (CCA) Rules, 1965 as made applicable to the Council Servants.

Then there was joint enquiry against the applicant and the concerned cashier and the mis-conduct in deflating the amounts was established on the part of the cashier. It was observed by the Enquiry officer that if the applicant as Controlling authority cross-verified the entries in the acquittance roll with the entries in the cash book, and also verified the relevant counterfoil of the Pay-in-slip after remittance into the Bank with the relevant entry in the cash book, the Cashier would not have the opportunity to mis-appropriate the cash and hence the Enquiry Officer held that the charges against the applicant are also proved and the disciplinary authority agreed with the said finding.

4. The disciplinary authority passed order dated 15-11-90 imposing penalty by reduction of 2 stages in Time scale for one year without cumulative effect. The appeal thereon was dismissed by order dated 11-3-94. Being aggrieved, the applicant filed this OA assailing the order dated 7-12-90 as confirmed by the appellate authority by order dated 11-3-91.

5. The applicant applied for voluntary retirement probably on being faced with the disciplinary enquiry, for no positive act of mis-conduct on his part. Be that as it may, he was allowed to retire and he retired as A.O of C.S.I.R. on 1-1-91.

4. It is not even the case for the applicant that the entries in regard to the amounts said to have been disbursed as per cash Register are not ~~more than~~ ~~than~~ amounts actually paid as per acquittance Register. It is ~~for~~ ^{placed} the applicant that when no order is issued appointing him as DDO, he cannot be held responsible for not cross-checking the entries in the cash book with the entries in the acquittance roll. But even ~~exhibit~~ D1 discloses that the applicant was placed in charge of the Cash Section. Hence it is for him to verify if not all, atleast few entries for the purpose of cross-checking. If the cashier knows that cross-checking is going ^{not} to be made atleast at random, he would have even thought of manipulating the entries in the cash book. Anyhow, the charge against the applicant is that there was negligence on his part in not physically checking cash in hand and in not ensuring proper maintenance of the cash book by the cashier. Hence ⁱⁿ view of the discrepancy between the entries ^{the} in the cash book and entries in the acquittance roll, it has to be held that there was no proper checking and hence we find that there was negligence on the part of the applicant.

5. The Enquiry officer observed that though the applicant inspected the pay-in-slip, he has not chosen to get it marked and thereby it can be inferred that the relevant pay-in-slip is not checked properly. But in para 3 of the letter dated 20-8-90 addressed by the applicant to the disciplinary authority, it is stated by the applicant that during the course of oral arguments the Presentin

Officer stated that he has examined the pay-in-slip and hence it has to be held that the allegation was proved and then the applicant told the enquiry officer that the counter-foil appeared to have been removed and hence there was no question of the applicant examining or inspecting the same. But the disciplinary authority has not adverted to the same in the order dated 15-11-90. But as we hold that the charge that there was negligence on the part of the applicant in regard to the entries for which there was discrepancy between the entries in the acquittance roll and the entries in the cash book and in the view which we are taking in regard to punishment, we feel it not a case for remitting to disciplinary authority in regard to alleged negligence of applicant in regard to shortfall of Rs.1650/- in remittance to Bank.

6. Even in the very order dated 15-11-90, the disciplinary authority specifically mentioned that in the circumstances which existed, a lenient view has to be taken and accordingly while ordering reduction of two stages in the time scale for one year, it was observed that it should be without cumulative effect. The disciplinary authority might not have been informed that the applicant applied for voluntary retirement. If the said authority knew that the applicant had already applied for voluntary retirement and the applicant would be allowed to retire, then he would have passed some punishment which might not have an effect on the quantum of pension. As 10 months average pay prior to the retirement of the applicant has to be taken as basis for calculating pension, and as the reduced pay in pursuance of the order of punishment was given in November and December, 1990, that is for two months immediately before

To

1. The Director, Council of Scientific & Industrial Research, Rafimarg, New Delhi-1.
2. The Joint Secretary, (Admn.) CSIR, Rafi Marg, New Delhi-1.
3. The Director, Indian Institute of Chemical Technology (Formerly Regional Research Laboratory), Uppal Road, Hyderabad-7.
4. One copy to Mr.N.Rammohan Rao, Advocate, CAT.Hyd.
5. One copy to Mr.C.B.Desai, SC for CSIR, CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

pvm

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Devin
27/6/4

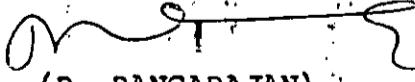
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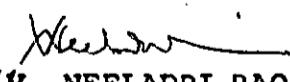
retirement of the applicant, there was some reduction in the pension because of the above punishment, and that reduction in pension will have effect throughout the life of the applicant ^{though} from the date of his retirement. Thus ^{when the} disciplinary authority felt that the effect of reduction should not be given cumulative effect as lenient view has to be taken, in view of the voluntary retirement of the applicant within 1½ months from the date of punishment ^{and} as the fact was not known to the disciplinary authority, the punishment is having cumulative effect.

7. ~~thus as~~ the disciplinary authority had already held in the order dated 15-11-90 that lenient view has to be taken, and as the appellate authority had also agreed with the disciplinary authority that a lenient view has to be taken it is just and proper to remit the matter to the appellate authority to ~~award~~ punishment which will not result in reduction in pension.

8. In these circumstances, the order dated 11-3-91 of the appellate authority is set aside. The matter is remitted to ~~appellate authority~~ for imposing proper punishment in accordance with law keeping in view the observations in this order.

9. The OA is ordered accordingly. No costs./


(R. RANGARAJAN)
Member (Admn.)


(V. NEELADRI RAO)
Vice-Chairman

Dated 19-10-94
Open court dictation

NS


Deputy Registrar

TYPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE V.NEELADRI RAO
VICE-CHAIRMAN

AND

THE HON'BLE MR.K.RANGARAJAN : M(ADAN)

DATED: 19-10-1994

ORDER/JUDGMENT

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

C.A.No.

799 in 91

W.P.No.

(W.P.NO)

Admitted and Interim directions
Issued.

desparecopy

Allowed.

Disposed of with directions.

Dismissed

Dismissed as withdrawn

Dismissed for Default.

Ordered/Rejected

No order as to costs.

pvm

