

List of Papers in Original Application No.

123/92

Sl.No.Of
Papers.

Date of Papers
Or
Date of Filing.

Description
of Papers.

Part I

21-2-90

Original Judgement

14-2-92

O.A. & Meterial Papers.

13-7-92

Counter

Reply Counter

~~PART I~~, ~~PART II~~, ~~PART III~~

Destroyed.

23/3/99

RECORD SECTION INDEX SHEET

a) Applicant (s) C. Sundarajan

| | |
|-------------------|---|
| b) Respondent (s) | The Secretary Dept of Mines New Delhi or other |
|-------------------|---|

| Sl.No. | Part. I Description of Documents. | Page No. |
|--------|-----------------------------------|----------|
| | Order Sheet | 164 |
| | Original Application | 5 to 13 |
| | Ma-terial Papers | 14 to 23 |
| | Order dated | |
| | Counter Affidavit. | |
| | Reply Affidavit | 24 to 27 |
| | Order dated 21-2-95 | 28 to 31 |
| | Part. II | |
| | Duplicate Order Sheet. | |
| | " Application | |
| | " Material Papers | |
| | " Order dt. | |
| | " Counter Affidavit | |
| | " Reply Affidavit | |
| | " Order dt. | |
| | Part. III | |
| | Vakalat ✓ | |
| | Notice Papers ✓ | |
| | Memo of Apperiance. | |
| | 5/4/95 | |

①

OA 123/92

| Date | Office Note | ORDER |
|------|-------------|-------|
|------|-------------|-------|

23-1-95

Post on 26-1-95

HABG
M(A)

HAVH
M(S)

26-1-95

Post on 30-1-95 at the request of
counsel for the applicant.

HABG
M(A)

HAVH
M(S)

2-2-95

Letter on 14-2-95

~~HABG~~
M(A)

~~HAVH~~
M(S)

21-2-95

OA is disposed of
with no order as to costs.
Vide the orders on separate
sheets.

Mr V. Venkateswara
DAO

Mr R. S. S. S. S.

HAVH
M(S)

V. Venkateswar Rao
ADVOCATE

© 665481

1-1-287/27, Chikkadpally
Mahavir Medical Hall Lane
HYDERABAD - 500 020

DATE 9.9.1993

To

The Dy. Registrar
Central Administrative Tribunal
Hyderabad.

Sir,

Sub:- O.A.No. 123 of 1992

The applicant challenged the punishment of compulsory retirement inflicted on him. Counter is already filed by the respondents. The applicant is out of service for more than one-and-half year and is facing great hardship.

Therefore, the office may be directed to post this letter before the Honourable court to enable the counsel to get early disposal of the O.A. and ~~xxx~~ oblige.

Thanking you,

Yours faithfully,

W.D.
Counsel for Applicant.

Received
N.R. Devaraj
7/9/93

cc: to Sri N.R. Devaraj
Sr. Standing Counsel.

Shown to the
May Be posted before
I Court on 16/9/93

© A 12382

Central Administrative Tribunal

HYDERABAD BENCH

O.A. No./T.A. No. 19

Applicant (s)

Versus

Respondent (s)

| Date | Office Note | Orders |
|---------|-------------|---|
| 22.9.93 | | <p style="text-align: center;"><u>20.9.93</u></p> <p>On the report of applicant counsel list the case on 22-9-93</p> <div style="display: flex; justify-content: space-around; align-items: center;"> <div>HTCSN MT</div> <div>Bfo J.</div> <div>HABG- RA,</div> </div> <p style="text-align: center;">At the request of applicant counsel post on 11.10.93</p> <div style="display: flex; justify-content: space-around; align-items: center;"> <div>HTCSN MT</div> <div>Bfo J.</div> <div>HABG- RA,</div> </div> <p style="text-align: center;"><u>12.10.93</u></p> <p>List the case on 19.10.93</p> <div style="display: flex; justify-content: space-around; align-items: center;"> <div>HTCSN MT</div> <div>Bfo J.</div> <div>HABG- RA,</div> </div> |

②

OA 123/92

| Date | Office Note | Orders |
|----------|-------------|---|
| 24-11-92 | | on the request of applicants counsel. Pol on 3-12-92 HRS M(A) TCSA M(J) |
| 3-12-92 | | The counsel for the applicant requests for early hearing. The case is ripe for hearing with counter. List this case for final hearing on 8-1-93. HRS M(A) TCSA M(J) |
| 8-1-93 | | Added to 1612/93 AC |
| 17-1-93 | | It seems of applicant's counsel like this O.A. on 19-1-93. HRS M(A) HRS M(A) |
| 17-1-93 | | By order. for Registrar. Discontinue to 24-2-93. HRS M(A) HRS M(A) Registrar |

V. Venkateswar Rao
ADVOCATE

30/10/92
placed for forwarding directions
of Honble member (Adm).

© 665481

1-1-287/27, Chikkadpally
Mahavir Medical Hall Lane
HYDERABAD - 500 020

30/10/92

DATE 30/10/92

TO

The Registrar,
Central Administrative Tribunal
Hyderabad.

In the last
week of Nov 92

2

30/10/92

Sir.

Sub:- Petition of OA 123/92

The above matter was admitted
on 31.3.92. The Counter was also
filed and the matter ripe for
hearing. Since the applicant is
removed from service, the
matter is urgent. Therefore
the OA may be listed immediately
for hearing and disposal.

Received
by 30.10.92
for N.R. Denny
Sr. CHS

H.R.S.

Submitted
for order 30/10

Yours faithfully
bpm

Consult for Applicant

date office note

orders.

2-3-92.

on a representation by Sri Jagannathan Reddy, on behalf of Sri N.A. Devraj, learned counsel for the Respondents, who is stated to be unwilling, list the case for admission hearing on 31-3-92.

(HABS)
M(A)

(HCSR)
M(B)

21-3-92

Sri V. Venkateshwar Rao, counsel for the applicant and Sri N.A. Devraj, counsel for the Respondents are present and heard and we felt at this stage that the case should be admitted. Admit the case. The Respondents are directed to file their ~~reply~~ counter within eight weeks with an advance copy to the counsel for the applicant, who may file the rejoinder, if any, within two weeks thereafter.

list the case on 11-6-92 for final hearing.

(HABS)
M(A)

(HCSR)
M(B)

OA 123/92

#11 6/92

11-6-92

On a request by Mr. Yathiragulu
on behalf of Mr. V. Venkateswara Rao
who is stated to be ~~is~~ unwell,
list this case under the same
heading on 18-6-92.

M
HRBS
M(A)

T.C.R.P.
HTCSR
T(J)

18 6/92

Adjourned to 22.6.92
at the request of applicant's
counsel

HRBS
M(A)

HTCSR
T(J)

17-7-92

Delay in filing the counter
is condoned. MA 736/92 is
accordingly allowed. Office
is directed to take the counter
on file. List the case in usual
course.

M
HRBS
M(A)

HTCSR
T(J)

| Date | Office Note | Orders |
|---------|-------------|--|
| | | <p>that there is sufficient evidence as against the applicant and that the Department had jurisdiction to initiate disciplinary proceedings. In view of the rival contentions raised by both the sides, list this O.A. before a Division Bench on 9.3.1992 <i>for admission hearing and orders.</i></p> <p style="text-align: right;"><i>T. C. N.</i> HTCSR M(J)</p> |
| 9.3.92 | | <p style="text-align: center;"><u>9.3.1992</u></p> <p>On a request by Mr. V. Venkateswara Rao, learned counsel for the applicant, list this case for admission hearing on 11.3.92.</p> <div style="display: flex; justify-content: space-around;"> <div style="text-align: center;"><i>D</i> HRBS M(A)</div> <div style="text-align: center;"><i>T. C. N.</i> HTCSR M(J)</div> </div> |
| 11-3-92 | | <p><i>When this case was called, at the request of Mr. Pani Raj on behalf of Mr. V. Venkateswara Rao, advocate for the applicant, list this case for admission hearing on 18-3-92.</i></p> <div style="display: flex; justify-content: space-around;"> <div style="text-align: center;"><i>D</i> HRBS M(A)</div> <div style="text-align: center;"><i>T. C. N.</i> HTCSR M(J)</div> </div> |
| 18-3-92 | | <p>At the request of Mr. Phani Raj on behalf of both the Counsels list this case for admission hearing on 20-3-92.</p> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;"><i>D</i> (HRBS) M(A)</div> <div style="text-align: center;"><i>B/O</i> <i>E</i> <i>75</i></div> <div style="text-align: center;"><i>(HTCSR)</i> M(J)</div> </div> |

OA 123/92

3

4

Office Note

Orders

At the request of Mr. N.R. Devraj,
list this case for admission hearing on
23-3-92.

23
(HRBS) B/o (HCSR)
M(A) M(J)

23-3-92

When this case was called, Mr. V.
Venkateswara Rao, learned Counsel
for the applicant was present. On
a request by Mr. N.R. Devraj, learned
Standing Counsel for the Respondents
list this case for admission hearing
on 24-3-92.

24
HRBS
M(A)

24
HCSR
M(J)

24-3-92

order Report given both the
Counsel appeared on 27-3-92

HRBS
M(A)

B/o
M(J)

HCSR
M(J)

Central Administrative Tribunal

HYDERABAD BENCH



O.A. No./ F.A. No.

123/1992

C. Sundarayan

Applicant (s)

Versus

The Secretary, Dept. of Mining, N. Delhi & 20th

Respondent (s)

| Date | Office Note | Orders |
|---------|-------------|---|
| 17-2-92 | | <p>On a request by Sro V. Venkateswara Rao, learned counsel for the applicant list the case for admission hearing on 19-2-92.</p> <p>(HRBS) (HCJR) M(A) M(J)</p> <p>19-2-92</p> <p>On a request by Mr. V. Venkateswara Rao, learned counsel for the applicant, list this case for admission hearing on 21-2-1992.</p> <p>(HRBS) (HCJR) M(A) M(J)</p> <p>21.2.1992</p> <p>When the case was called, Mr. N.R. Devaraj raised the question of alternative remedy under S.20 of the A.T. Act not having been exhausted. On this point, Mr. Venkateswara Rao for the applicant wanted further time to argue on the maintainability of the case. List this case for admission hearing on 28.2.1992.</p> |

19 2/92

21.2.92

HRBS
M(A)

HCJR (P.T.O.)
M(J)

(U.)

(2)

OA 123/92

| Date | Office Note | Orders |
|---------|-------------|---|
| 28-2-92 | | At the request of Mr. Phani Raj on behalf of Mr. V. Venkateswara Rao list this case for admission hearing on 3-3-92. |
| 3.3.92 | | <p>(HRS) M(A) T. I. M. (HCSR) M(S)</p> <p><u>3.3.1992</u></p> <p>Mr. V. Venkateswara Rao, learned counsel for the applicant and Mr. N.R. Devaraj, learned Standing counsel for the respondents are present. Mr. Venkateswara Rao, during the course of the admission hearing took us through the evidence of the important witnesses that were examined by the Inquiry Officer. After taking us through the said evidence, Mr. Venkateswara Rao, learned counsel for the applicant contends that this is a case of no evidence and hence at the admission stage itself the punishment order imposed on the applicant is liable to be set-aside and the OA is liable to be allowed. He further contends that no criminal prosecution had been there as against the applicant with regard to the alleged incident and in view of this position that the respondents had no jurisdiction to initiate any disciplinary action as against the applicant and the entire disciplinary proceedings initiated against the applicant are vitiated. Mr. Devaraj, learned Standing counsel for the respondents takes us to the Inquiry Officer's report and contends</p> <p>contd....3</p> |

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD

ORIGINAL APPLICATION NO. 123 OF 1992

Shri C. Sundaresan Applicant(s)

Versus

Secretary, Dept of Mines, N-Delhi

& 2 Co.

Respondent(s)

This Application has been submitted to the Tribunal by
Mr. V. Venkateswara Rao Advocate

under Section 19 of the Administrative Tribunal Act, 1985 and
same has been scrutinised with reference to the points mentioned
in check list in the light of the provisions contained in the
Administrative Tribunal (Procedure) Rules, 1987.

The Application has been in order and may be listed
for admission on - 28/2 -.

C. Sundaresan
Scrutiny Officer.

S/M/2/92
Deputy Registrar (J)

| Particulars to be examined | Endorsement as to result of examination |
|---|---|
| 8. Has the index of documents been filed and has the paging been done properly? | y |
| 9. Have the chronological details of representations made and the outcome of such representation been indicated in the application? | y |
| 10. Is the matter raised in the application pending before any court of law or any other Bench of the Tribunal? | y |
| 11. Are the application/duplicate copy/spare copies signed? | y |
| 12. Are extra copies of the application with annexures filed. | |
| (a) Identical with the original | y |
| (b) Defective | |
| (c) Wanting in Annexures | 2 |
| No...../Page Nos.....? | |
| d Distinctly Typed? | |
| 13. Have full size envelopes bearing full address of the Respondents been filed? | y |
| 14. Are the given addresses, the registered addresses? | y |
| 15. Do the names of the parties started in the copies, tally with those indicated in the application? | y |
| 16. Are the translations certified to be true or supported by an affidavit affirming that they are true? | y |
| 17. Are the facts for the case mentioned under item No. 6 of the application. | |
| (a) Concise? | y |
| (b) Under Distinct heads? | 2 |
| (c) Numbered consecutively? | |
| (d) Typed in double space on one side of the paper? | y |
| 18. Have the particulars for interim order prayed for, stated with reasons? | y |

May 19/12
C. K. S.

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

APPLICANT (S) P. Sundararam

RESPONDENT (S) Secretary, Dept of Mining, Govt of Andhra Pradesh

Particulars to be examined

Endorsement as to result
of examination

1. Is the application Competent ? u
2. (a) Is the application in the prescribed form ? 9
(b) Is the application in paper book form ? }
(c) Have prescribed number complete sets of the application been filed ? }
3. Is the application in time ? u
If not by how many days is it beyond time ? 2
His sufficient cause for not making the application in time, stated ? 2
4. Has the document of authorisation / Vakalat name been filed ? u
5. Is the application accompanied by B.D./I.P.O. for Rs. 50/-? Number of B.D. / I.P.O. to be recorded. 9
6. Has the copy/copies of the order (s) against which the application is made, been filed ? u
7. (a) Have the copies of the documents relied upon by the applicant and mentioned in the application been filed ? }
(b) Have the documents referred to in (a) above duly attested and numbered accordingly ? }
(c) Are the documents referred to in (a) above neatly typed in double space ? }

CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH.

INDEX SHEET.

O.A. No.

123/- 1992

CAUSE TITLE

C. Sundarasan

VERSUS

Secretary, Dept. of mines, N. Delhi & 2 others

| Sl. No. | Description of Documents. | Page No |
|---------|---------------------------|----------|
| 1. | Original Application | 1 to 9 |
| 2. | Material Papers. | 1 to 10. |
| 3. | Vakalat | 1. |
| 4. | Objection Sheet | — |
| 5. | Spereare Copies 3 (Thru) | |
| 6. | Covers. 3 A | |
| | | |

Not to set aside the Order of compulsorily retiring the Applicant
from service as Surveyor.

GENERAL

GENERAL

BENCH CASE

Bench

In the Central Administrative Tribunal, Hyderabad Bench
at Hyderabad

*General
(988)*

U.A.No. 123 of 1992

Between:

C. Sundaresan

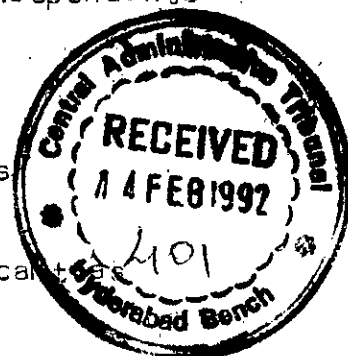
Applicant

and

Union of India

Respondents

List of Chronology of Events



1. 2.5.1984 Appointment of the Applicant as surveyor.
2. 1.8.1987 Confirmation of the applicant
3. 8.5.1989 suspension of the applicant
4. 5.7.1989 Charge memo issued to applicant
5. 12.7.1989 Reprn. of the applicant
6. 17.7.1989 Applicant denied the charges
7. 24.7.1989 Appointment of Enq. officer
8. 6.3.1990 to 27.2.91 Enquiry proceedings
9. 16.8.1991 submission of enquiry report.
10. 1.1.1992 supply of copy of report to applicant
11. 16.1.92 Representation of the applicant
12. 10.2.1992 imposition of penalty.

Hyderabad.

14.2.1992

[Signature]
Counsel for Applicant.

*Amal Kumar
M. N. N. N.
P. M. Bhaskar Rao
CGSC
14/2/92*

*Allocated to N.R. Devi Raj
N. B. Bhaskar Rao
CGSC 14/2/92*

6

Application under section 19 of the A.T.Act, 1985
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNALS: HYD' BAD BENCH
AT HYDERABAD.

Between:

C. Sundaresan .. Applicant

and

Union of India repto. by Secretary
Department of Mines, Ministry of
Steel & Mines, New Delhi & others... Respondents

I N D E X.

| S.No. | Description | Page Nos. | Annexure |
|-------|--|-----------|----------|
| 1. | Original Application | 1 to 8 | |
| 2. | Charge Memo dt 5.7.89 | 9 to 14 | A.1 |
| 3. | Reptn. dt 16.1.92 | 15 - 16 | A.2 |
| 4. | Office order dt 10.2.92 imposing penalty | 17 - 18 | A.3 |
| 5. | Office order dt 10.2.92 treating the suspension period as E.O.L. | 19 | A.4 |


COUNSEL FOR APPLICANT.

FOR TRIBUNAL OFFICE USE

Date of Filing:

Regn. No.

Signature of Registrar.

(7)

In the Central Administrative Tribunal, Hyderabad Bench
at Hyderabad.

C.A.No. 123 of 1992

Between:

C. Sundaresan s/o *K. Challa Plam*
aged about 34 years,
occ: Surveyor, Geological Survey
of India, Hyderabad r/o Hyderabad. .. Applicant

and

1. The Union of India, repto. by the
Secretary, Department of Mines,
Ministry of Steel & Mines,
Central Secretariat, New Delhi.
2. The Director General,
Geological Survey of India,
Calcutta- 700 016.
3. Senior. Dy. Director General,
Geological Survey of India,
Southern region, G.S.I. complex,
Bandalguda, Hyderabad-500660. .. Respondents

I. PARTICULARS OF THE APPLICANT:

The particulars of the applicant herein are
the same as mentioned in the cause title above.

His address for the purpose of service of
summons, notices, etc. is that of his counsel m/s V.
Venkateswar Rao & K. Phani Raju, Advocates, 1-1-287/27
Chikkadpalli, Hyderabad-500020.

II. PARTICULARS OF THE RESPONDENTS:

The particulars of the respondents are the same
as mentioned in the cause title above.

Their addresses are also same as mentioned in
the cause title above.

III. ORDERS AGAINST WHICH THIS D.A. IS FILED:

This D.A. is filed by the applicant challenging
the validity of the orders No. 195/C-14013/7/89-Vig. dated
10.2.1992 issued by the 3rd respondent imposing the penalty
and 199 *CA-3 to AY*

1st page.
corrections

of compulsory retirement from service.

IV. JURISDICTION: ~~xxxxxx~~ The applicant declares that the subject matter of the U.A. is within the jurisdiction of this Honourable Tribunal as per section 14(1) (a) of the Administrative Tribunals Act, 1985 since the applicant is an employee of Geological Survey of India at Hyderabad.

V. LIMITATION: The applicant further declares that the U.A. is filed within the limitation period prescribed in section 21(1) of the Administrative Tribunals Act, 1985 in as much as the impugned order is dated 10.2.92 against which there is no alternative efficacious remedy.

VI. FACTS OF THE CASE:

The applicant respectfully submits that he was appointed as Surveyor in Geological Survey of India by the Deputy Director General, Geological Survey of India, Southern Region, Hyderabad vide his office order dated 2.5.1984. He was appointed as such by virtue of his being selected in the direct recruitment. He was put on probation for a period of two years and he completed the same satisfactorily. Therefore, his services were confirmed by the third respondent with effect from 1.8.1987 and thus he became permanent employee of the Geological Survey of India.

(b) The applicant was placed under suspension w.e.f. 8.5.1989 on the ground that disciplinary proceedings were contemplated against him. Later on the applicant was served with the charge memo issued by the third respondent vide ref.No.770/C.14013/7/89-Vig. dated 5.7.1989. (A-1) Two charges were levelled against him alleging the acts of moral turpitude and misconduct. The applicant vide his letter dated 12.7.89

(9)

addressed to the third respondent requested for supply of copies of the documents relied upon by the administration to prove the charges levelled against him. In spite of specific request made by the applicant copies of the documents were not made available to the applicant. The applicant vide his letter dated 17.7.1989 denied the charges levelled against him and requested for oral enquiry. Thereafter the third respondent appointed Sri P.S.Rao director-incharge, Madras as enquiry officer vide his office order No.C-14013/7/89-Vig dt 24.7.1989. Mr.N.C.Murali, Geophysicist(senior) was also appointed as Presenting officer vide office order dt 24.7.1989. The applicant herein engaged Sri N.R.Mukherjee as his defence assistant in the enquiry instituted against him. The enquiry officer held the enquiry on 6.3.1990, 24.4.90, 25.4.90, 19.6.90, 11.9.90, 13.9.90, 27.11.90, 28.11.90 and 27.2.91 at Hyderabad, Bangalore and Madras respectively. The enquiry officer who was Director-incharge was promoted to the post of Dy. Director General equivalent to the post of disciplinary authority during the course of enquiry. After conclusion of the enquiry sittings and the evidence, the presenting officer submitted his written brief on 18.3.91 and the defence assistant of the applicant submitted his written brief on 1.5.91. Thereafter suspension of the applicant was revoked by the third respondent vide his office order dt 12.7.91. The enquiry officer submitted his report and the findings to the disciplinary authority on 16.8.1991. The enquiry officer held the two charges levelled against the applicant as proved and established. The copy of the enquiry officer's report was furnished to the applicant by the third respondent vide his letter dated 1.1.1992. Thereafter the applicant submitted his

representation to the third respondent on 16.1.1992 (A3) raising his objections to the conclusions arrived at by the enquiry officer and holding him guilty of the charges levelled against him. The third respondent vide his office order No.195/C.14013/7/89-Vig dt 10.2.1992 (A3) imposed the penalty of compulsory retirement on the applicant on the basis of the findings of the enquiry officer. The suspension period from 8.5.89 to 11.7.91 was treated as E.D.L.(extraordinary leave) which will not count for pensionary benefits vide his office order No.199/C.14013/7/89-Vig dt 10.2.92. (A)1

(c) It is respectfully submitted that the impugned order dated 10.2.1992 issued by the third respondent imposing the penalty of compulsory retirement on the applicant is highly illegal, arbitrary, malafide, unconstitutional and without jurisdiction. As such the impugned order is liable to be set aside by this Honourable Tribunal on the following grounds:

G R O U N D S

(i) The enquiry initiated against the applicant is wholly without jurisdiction. The provisions of C.C.S(C.C.C.A) Rules & Conduct Rules do not attract the alleged act of misconduct. The imputation is totally unconnected with the discharge of official duties and relates purely to a criminal offence against a private citizen. In this connection, the applicant relies upon 1990(1)SLJ (CAT) 385 (Mad) whose finding is as follows:

"Where the imputation is with respect to conduct, totally unconnected with the discharge of official duties but it relates purely to a criminal offence against a private citizen, just because the matter is brought to the attention of the disciplinary authority, it is not justified in straightaway initiating disciplinary proceedings, without even ascertaining whether the criminal law is set in motion by the affected citizen."

(ii) The enquiry officer and the disciplinary authority are prejudiced and biased throughout the enquiry which is apparent on the face of the record

(iii) The originals of the documents relied upon by the administration have not been marked in the enquiry. The applicant was not furnished with the copies of the documents requested for by him. The enquiry officer unnecessarily interfered with the cross-examination of the witnesses of the administration and did not permit the defence assistant to cross-examine the ~~xxxx~~ witnesses on vital and important points. Thus, the applicant was denied reasonable opportunity to defend his case in the enquiry.

(iv) There is no evidence on which the enquiry officer could have relied to arrive at his conclusions and hold the applicant as guilty of the charges levelled against him. His findings are wholly perverse and baseless and are only based on his surmises and presumptions.

(v) There is no independent application of mind by the disciplinary authority to the enquiry proceedings. He issued the impugned proceedings punishing the applicant in a most mechanical way.

(vi) Extraneous considerations weighed in the minds of the enquiry officer and the disciplinary authority to prove the charges against him and punish him with major penalty of compulsory retirement out of their bias and prejudice. On account of this the entire enquiry proceedings are vitiated in law and are not valid in law.

(vii) It is evident on the face of the record that the authorities are predetermined to punish the applicant which lead to the issue of the impugned proceedings imposing major penalty on the applicant.

(viii) The enquiry was held in utter violation of the procedure laid down in the C.C.S.(CCA) Rules for imposing the major penalty and violating the principles of natural justice.

(ix) The alleged acts of misconduct on the part of the applicant are not attracted by the provisions the C.C.S.(Conduct) Rules. Therefore the enquiry instituted against the applicant is without any authority of law and the same liable to be quashed.

(x) At any stretch of imagination, it cannot be held that the charges are proved against him without any cogent evidence on record.

RELIEF

Therefore, it is prayed that this Honourable Tribunal may be pleased to call for the records pertaining to the office orders No.195/C.14013/7/89-Vig dt 10.2.1992 (A-3) and No.199/C.14013/7/89-Vig. dt 10.2.1992 (A-4) issued by the third respondent and set aside the same by holding them as illegal, arbitrary, malafide, unconstitutional and without jurisdiction and declaring that the applicant is entitled for reinstatement with all consequential benefits such as seniority, back wages, promotion etc. and pass any other order or orders as is deemed fit, proper, necessary and expedient in the circumstances of the case.

(12)

VIII. INTERIM RELIEF

Pending disposal of the above O.A., it is further prayed that this Honourable Tribunal may be pleased to suspend the operation of the impugned order No.195/C.14013/7/89-Vig dated 10.2.1992^(A-3) issued by the third respondent and pass any other order or orders as is deemed fit, proper, necessary and expedient in the circumstances of the case. If the impugned order is not suspended, the applicant would suffer irreparable loss and damage in as much as his livelihood is taken away in any arbitrary and illegal manner.

IX. DETAILS OF REMEDIES EXHAUSTED: The applicant declares that there is no other alternative efficacious remedy in the circumstances except to approach this Honourable Tribunal seeking redressal of his grievance.

X. MATTER NOT PENDING WITH ANY OTHER COURT: The applicant further declares that the matter regarding which the application has been made is not pending before any court of law or any other authority or any other bench of the Tribunal. The applicant has not moved any other court or authority for the relief claimed in the present O.A.

XI. PARTICULARS OF THE XXXX POSTAL ORDER TOWARDS O.A.FEE


I.P.O.No. 04 435869 dated 13.2.1992 for Rs.50/- to the credit of Registrar, Central Admn. Tribunal, Hyderabad Bench is enclosed.

XII. DETAILS OF INDEX: ~~XXXXXXXXXXXXXXXXXXXX~~

An 8x Index of material papers. in duplicate containing the details of the documents to be relied upon is enclosed.

XIII. LIST OF ENCLOSURES:

1. I.P.O. for Rs.50/-
2. Index of Material papers.


O.A./I.P.O. Removes
• 10/10/1992

(13)

- 8 -

Verification

I, C. Sundaresan, s/o K. Challappan ,
aged about 34 years, occupation: Surveyor, G.S.I.,
r/o Hyderabad, applicant in the above S.A. do hereby
verify that the contents of the paragraphs I to XIII
are true and correct to the best of my knowledge and
are believed to be true on legal advice and we have
not suppressed any material facts.

Hence, verified on this the 14th day of
February, 1992 at Hyderabad.

Hyderabad
14.2.1992

Sundaram C
APPLICANT.

[Signature]
Counsel for Applicant.

To

The Registrar,
Central Administrative Tribunal,
Hyderabad Bench,
Hyderabad.

Geological Survey of India,
Southern Regional Office,
Hyderabad - 500 001.

No. 770/C.14013/7/89-Vig

Dated, the 5 July, 1989

MEMORANDUM

The undersigned proposes to hold an enquiry against Shri C. Sunderasan, Surveyor (Under Suspension) under rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. The substance of the imputations of misconduct or misbehaviour in respect of which the enquiry is proposed to be held is set out in the enclosed statement of article(s) of charge (Annexure-I). A statement of the imputations of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure-II). A list of documents by which, and a list of witnesses by whom the article(s) of charge is/are proposed to be sustained are also enclosed (Annexure-III and IV).

2. Shri S. C. Sunderasan, Surveyor (Under Suspension) is directed to submit within 10 (ten) days of the receipt of the Memorandum a written statement of his defence and also to state whether he desires to be heard in person.

He is informed that an enquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each article of charge.

4. Shri C. Sunderasan, Surveyor (Under Suspension) is further informed that if he does not submit his written statement of defence on or before the date specified in para 2 above, or does not appear in person before the enquiring authority or otherwise fails or refuses to comply with the provisions of Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 or the orders/directions issued in pursuance of the said rule, the enquiring authority may hold the enquiry against him ex-parte.

5. Attention of Shri C. Sunderasan, Surveyor (Under Suspension) is invited to rule 20 of the Central Civil Services (Conduct) Rules, 1964 under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings, it will be presumed that Shri S. C. Sunderasan, Surveyor, (Under Suspension) is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of rule 20 of the Central Civil Services (Conduct) Rules, 1964.

6. The receipt of this Memorandum may be acknowledged.

Encl: as above.

R. V. Chalapati Rao
(R. V. CHALAPATHI RAO)
Dy. Director General,
Disciplinary Authority.

To
Shri C. Sunderasan, Surveyor (Under Suspension)
Geological Survey of India,
P&C Division, GSI, 580,
Hyderabad.

STATEMENT OF ARTICLE OF CHARGE FRAMED AGAINST SRI C.SUNDERESAN
SURVEYOR, GEOLOGICAL SURVEY OF INDIA, SOUTHERN REGION, HYDERABAD

Article - I

That the said Shri C.Sunderesan, Surveyor while functioning in Panankellur Geophysical Camp has misbehaved with Smt. Rama Devi wife of Shri K.Chandramouli, Asst.Geophysicist and tried to molest and outrage her modesty around 3.30 PM on 8th April, 1989 which amounts to MORAL TURPITUDE. Shri C.Sunderesan has thus failed to maintain absolute integrity and behaved in a manner unbecoming of a Government Servant in violation of Rule 3(1)(i)&(iii) of CCS(Conduct) Rules, 1964.

Article - II

That the said Shri C.Sunderesan, Surveyor while functioning in the Panankellur Geophysical Camp had sent the Watchman on duty out of the Camp around 3.15.PM on 8th April, 1989 without having any authority to do so for his private work with the sole intention of trespassing into the tent of Shri K.Chandramouli, Asst.Geophysicist in his absence as well as in the absence of the watchman on duty.

The above act of Shri C.Sunderesan to send the watchman on duty out of the camp not only resulted in exposing the Government Properties in the Camp to the security threat but also goes to prove that Shri Sunderesan had ulterior motive to misbehave with Smt.K.Rama Devi w/o Sri K.Chandramouli.

Shri C.Sunderesan, Surveyor has thus failed to maintain absolute integrity and devotion to duty and behaved in a manner unbecoming of a Government Servant in violation of Rule 3(1)(i)(ii) & (iii) of CCS(Conduct) Rules of 1964.

ANNEXURE - II

Statement of imputation of misconduct in respect of Article of Charge framed against Shri C.Sunderesan, Surveyor, GSI, Hyderabad

Article - I

That while functioning in Panankellur Geophysical Camp of GSI, SR Shri C.Sunderesan, Surveyor in a pre-planned manner and ensuring that there was nobody in the camp, by sending away the watchman on a petty mission except Smt.K.Rama Devi, W/o Shri K.Chandramouli, Asst.Geophysicist entered into the tent

of Shri K.Chandramauli, Asst.Geophysicist ~~xxxxxxxxxxxx~~ around 3.30 Pm on 8th April, 1989 and misbehaved with his wife Smt. K.Rama Devi and tried to molest and outrage her modesty.

This action on the part of Shri C.Sunderesan, amounts to Moral Turpitude and crime on women, thus has failed to maintain absolute integrity and behaved in a manner unbecoming of a Government Servant in violation of Rule 3(1)(i) & (iii) of CCS (Conduct) Rules, 1964.

Article - II

IMPUTATION OF MISCONDUCT

That the said Shri C.Sunderesan, Surveyor while functioning in Panankallur Geophysical Camp and after seeing that S/Shri K.Chandramauli, Asst.Geophysicist, RK Goddum, STA(Geoph) (Workshop Inset) and Puran Bahadur, Driver had left the Camp around 3 Pm on 8th April, 1989 for field duty had asked the watchman on duty Shri Mohanbhoob to go to MEC Camp to hand over some mangoes to one Shri Abraham with the sole intention to trespass into the tent of Shri K.Chandramauli, Asst.Geophysicist in his absence as well as in the absence of the Watchman on duty. Later on his misbehaviour with Smt.K.Rama Devi, W/o Shri Chandramauli, Asst.Geophysicist when he tried to molest and outrage her modesty, when there was nobody in the camp clearly shows that Shri Sunderesan had sent the watchman out of the camp without having any authority to do so in a preplanned manner with ulterior motive. The above act of Shri Sunderesan to send the watchman out of the camp also resulted in exposing the Govt. Properties in the camp to the security threat which shows that Shri Sunderesan had shown lack of devotion to duty.

Shri Sunderesan, Surveyor has thus failed to maintain absolute integrity and shown lack of devotion to duty and behaved in a manner unbecoming of a Govt. Servant in violation of Rule 3 (1) (i) (ii) & (iii) of CCS(Conduct) Rules 1964.

4
ANNEXURE - III

List of Documents by which the Article of Charge framed
against Shri C.Sunderasan, Surveyor, GSI, Hyderabad are
Proposed to be sustained

(17)

1. Written Statement dated 17-4-1989 of Smt.K.Rama Devi
w/o Shri K.Chandramauli, Asst.Geophysicist
2. Letter dated 17-4-1989 addressed to S.P.Shankaran,
Geophysicist(Sr), GSI Camp, Pamankallur by Shri K.Chandramauli,
Asst. Geophysicist
3. Written Statement made by Shri R.Madhusudan, Geologist
Op: Karnataka & Coa, Economic Geology -I, Bangalore on 30-4-1989
4. Letter dated 21-4-1989 addressed to Shri S.P.Shankaran,
Officer-in-Charge, GSI, Pamankallur Camp by Shri RK Gadam
S.I.A.(Geophysical Workshop Invt.)
5. Letter dated 18-4-1989 from Shri Purn Bahadur, Driver,
Geophysical Party addressed to the Party Chief, GSI Camp,
Pamankallur
6. Letter dated 17-4-1989 from Shri Mahboob, Watchman,
addressed to Shri S.P.Shankaran, Geophysicist(Sr)
on Pamankallur Geoph.Camp
7. Letter dated 17-4-1989 from Shri Moula S/o Hussain Sahab
Priyare, attached to Geologist Camp addressed to the
Officer-in-Charge, Pamankallur Geophysical Camp

...4

List of Witnesses by whom the articles of charge framed against Shri C. Sunderesan, Surveyor are proposed to be sustained

1. Smt. K. Rama Devi, W/o Shri K. Chandramauli, Asst. Geophysicist GSI, SR, Hyderabad.
2. Shri K. Chandramauli, Asst. Geophysicist, GSI, SR, Hyderabad
3. Shri R. Madhusudan, Geologist, Epithermal & Vol. Branch, Geology Division-I, GSI, Bangalore.
4. Shri Mohd. Qasbi, Watchman
5. Shri S. P. Shankaran, Geophysicist (Sr), GSI, Hyderabad
6. Shri R. K. Gadam, STA (Geoph. Workshop), GSI, Hyderabad
7. Shri P. Ram Behadur, Driver, GSI, Hyderabad
8. Shri Maula Saab, S/o Hussain Saab Fiazara, Pamankallur

6 A-2
(19)
From: C.S. Sunderesan
Surveyor
P.C. Division
GSI, SRD,
Hyderabad

Sr. Dy. Director General
and
Disciplinary Authority
Geological Survey of India
Southern Region
Hyderabad

Sub : Disciplinary proceedings under Rule-14 of CCS
(CCA) Rules, 1965.

Ref : Your Confidential letter No.30/C.14013/7/89-Vig.
dated 1.1.92.

Sir,

I gratefully acknowledge the receipt of the above
forwarding the report of the Inquiry Officer and calling
upon me to make a representation on it, if I so like.

I have gone through the report very carefully and have,
with a heavy heart, found how the Inquiry Officer, jumped to
his own conclusions, disadvantageous to the charged official,
mainly due to inadequate appreciation of the points clarified
during the course of cross-examination of the prosecution
witnesses. The findings of the Inquiry Officer should have
been based only on evidence adduced during the enquiry. His
conclusion should have been logical unlike the one he has
presented that appears as if he had already made up his mind
and that he is making a one-sided presentation of the case to
support it. It would have been judicious for him to probe into
the relevant issues only.

The charged official feels confident that the Disciplinary
Authority, after going through the papers connected with the
enquiry, will not fail to take his own decision that would meet
the both ends of justice. The applicant, however, elect to
utilise this opportunity to bring out a few points.

According to charge-sheet, the crime that alleged to
have committed by the charged official on 8.4.89 was against
one Smt.K.Rama Devi who was an outsider and non-official. The
defence was interested to know from the aggrieved party as to
what prevented them to react immediately and lodge the complaint
with the law and order machinery of the country particularly
when the local Police station was nearby. Instead of doing so,
on what consideration the complainant keeping quiet for a long
period of nine days and made a complaint on 18.4.89. Finding
the reply of the prosecution witnesses not satisfactory enough,
the Inquiry Officer in his report has come forward in their
succour. In page 9, para 5.1 of the Inquiry Report, the Inquiry
Officer's reply to above is that when a person has more than
one legal channel of redress, it is for him(the aggrieved) to
make his choice. It is the inherent right of every citizen of
India and it can not be questioned.

The Inquiry Officer in making such comment has completely
overlooked the more pertinent point that Smt.Rama Devi, being
a private person, the Central Civil Service Rules are not
binding on her personal affairs. The intention of the defence
has been misconstrued by the Inquiry Officer when he says that

...2/

inherent right of a citizen can not be questioned. The intention was to ascertain from the aggrieved as to what prevented them to exercise the right enjoyed by them as citizen. Unfortunately enough, the Inquiry Officer in his bid to protect the right of a citizen, forgets to exhibit his concern for the rights of a Govt. servant.

The connected issue will be further elucidated, if a similar case adjudicated at the Central Administrative Tribunal, is referred to. The case is C.Kenniappen Vs. Director, Jawaharlal Institute of Post Graduate Medical Education and Research, 1990(1) SLJ(CAT) 385(Madras). The opinion of the Tribunal in the case is reproduced below :-

"Where the imputation is with respect to conduct, totally unconnected with the discharge of official duties but it relates purely to a criminal offence against a private citizen, just because the matter is brought to the attention of the disciplinary authority, it is not justified in straightway initiating disciplinary proceedings, without even ascertaining whether the criminal law is set in motion by the affected citizen."

The charged official believes that the disciplinary authority will, after going through the papers of the enquiry, find that the Inquiry Officer has, on almost all points of his analyses and conclusions, relied more on extraneous events than on evidences. At this stage, the applicant feels that all those points are not required to elaborate since those are so palpable. It is, however, seen that the Inquiry Officer has forgotten to mention in his report that the Presiding Officer has lost all original documents relating to the case and was kept at his disposal as far back as 26th February, 1991 though the matter was mentioned during the enquiry.

Yours faithfully,

Hyderabad,
Dated: 16.1.92.

(C.Sunderesan)
Surveyor, P & C Division
CSI, SRD, Hyderabad

Geological Survey of India
Southern Region
GSI Complex : Bandlaguda
Hyderabad-500 660, AP

No. 195/C.14013/7/89-Vig.

Dated, the 10th Feb. '92

ORDER

Whereas charges against Shri C. Sunderesan, Surveyor, Geological Survey of India, Southern Region, Hyderabad, were framed under Rule 14 of the C.C.S. (CC&A) Rules 1965 and charge Memorandum with Articles of charges, statement of imputations, list of documents and witnesses at Annexure I to II was served on Shri C. Sunderesan, vide this office order No. 770/C.14013/7/89-Vig dated 5-7-1989.

And whereas Shri C. Sunderesan, Surveyor, in his statement of defence denied the charges levelled against him and expressed his desire to be heard in person through his reply dated 17-7-1989.

And whereas Shri P.S. Rao, then the Director-in-Charge and now Deputy Director General, Op:TNK&P Madras, was accordingly appointed as Inquiring Authority to inquire into the charges framed against Shri C. Sunderesan, Surveyor, and Shri N.C. Murali, Geophysicist (Sr.) was appointed as presenting officer vide O.O. Nos. 843 & 845/C.14013/7/89 dt. 24-7-89.

And whereas the Inquiry Officer on consideration of oral deposition made and examination of the documentary evidence produced before him in the subject case has come to the definite conclusions that the charges framed under Article I & II have been proved.

Article I

The charge under Article I, is that Shri C. Sunderesan, Surveyor, while functioning in Penankallur Geophysical Camp, has misbehaved with Smt K. Rama Devi W/o Shri K. Chandra Mauli, Assistant Geophysicist and tried to molest and outrage her modesty around 3.30 p.m. on 8th April, 1989, which amounts to moral turpitude.

In the oral deposition made by the charged official/witnesses and the Defence Assistant, the I.O. has come to the conclusion that the charge under the Article is proved.

I, concur with the conclusion of the I.O. that the allegation under article stand proved.

Article II

The charge under Article II, is that Shri C. Sunderesan, Surveyor, while functioning in the Penankallur Geophysical Camp had sent the watchman on duty out of the camp around 3.15 p.m. on 8th April 1989 without having any authority to do so for his private work with the sole intention of trespassing into the tent of Shri K. Chandra Mouli, Asstt. Geophysicist, in his absence as well as in the absence of watchman on duty.

The above act of Shri C. Sunderesan to send the watchman on duty out of the camp not only resulted in exposing the Government property in the camp to the security threat but also goes to prove that Shri Sunderesan had ulterior motive to misbehave with Smt. K. Rama Devi.

Contd.....2/-

In the oral deposition made by the charged official, witnesses and Defence Assistant, the I.O. has come to the conclusions that the charge is proved.

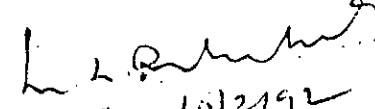
I concur with the conclusions of the I.O. that the allegation under Article II, stands proved.

I therefore, consider that the ends of the justice will be met by passing the following order.

O R D E R

Whereas on consideration of the records of the disciplinary proceedings instituted against Shri C. Sunderesan, Surveyor, Geological Survey of India, Southern Region, Hyd. the undersigned is satisfied that good and sufficient reasons exist for imposing upon the said Shri C. Sunderesan, Surveyor, the penalty hereinafter specified.

penalty Now, therefore, the undersigned hereby impose on Shri C. Sunderesan, Surveyor, Geological Survey of India, S.R., the under Rule 11(VII) of the C.C.S.(CC&A) Rules 1965, & order that Shri C. Sunderesan, Surveyor, G.S.I., S.R.O., Hyd. is retired compulsorily from the Government Service with immediate effect.


10/2/92
(M.N. BALASUBRAHMANIAN)
Sr.Dy. Director General &
Disciplinary Authority

To
Shri C. Sunderesan,
Surveyor,
G.S.I., S.R., Hyd.

10 A-4
CONFIDENTIAL (93)

GOVT. OF INDIA

Geological Survey of India
Southern Region
GSI Complex, Bandlaguda
Hyderabad-500 660, AP

/C.14013/7/89-Vig.

Dated, the 10th Feb.'92

O R D E R

- Disciplinary proceedings against
Shri C. Sunderesan, Surveyor & the
treatment of period of suspension -Reg.

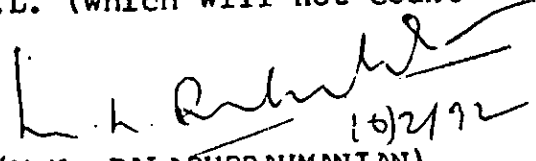
Whereas Shri C. Sunderesan, Surveyor,
Geological Survey of India, Southern Region, Hyderabad,
was placed under suspension with effect from 8-5-89
vide this office order No. 527/C.14013/7/89-Vig. dated, the
8th May, 1989.

And whereas the said suspension was revoked with
effect from 12-7-1991 pending appropriate action in the case,
and departmental disciplinary proceedings against him vide
this office order No. 765/C.14013/7/89-Vig. dt. 12-7-1991.

And whereas on completion of the Enquiry proceedings
against Shri C. Sunderesan and based on the report of the
Enquiry Officer (vis-a-vis the depositions made by the
charged official, and witnesses and the Defence Assistant),
the undersigned had imposed Major penalty on Shri C.
Sunderesan, Surveyor.

And whereas the admissibility of Pay and allowances
and treatment of service during the period of suspension of
Shri C. Sunderesan from 8-5-89 to 11-7-91 are to be decided in
terms of Rules.

Now, therefore, the undersigned after careful
consideration of the case has come to the conclusion that
since a Major Penalty has been imposed against the said Shri
C. Sunderesan. The entire period of suspension from 8-5-89 to
11-7-1991 shall be treated as E.O.L. (which will not count
for pensionary benefits).


(M.N. BALASUBRAHMANIAN)
Sr.Dy. Director General &
Disciplinary Authority

To

✓ Shri C. Sunderesan,
Hyderabad.

(24)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD
O.A. NO. 123 OF 1992,

Between

C.SUNDARESAN

... APPLICANT

and

1. The Union of India represented
by the Secretary, Ministry of
Mines, New Delhi.

2. The Director General,
Geological Survey of India,
Calcutta.16

3. The Sr.Dy.Director General,
Southern Region,
Geological Survey of India,
Hyderabad-500 660.

... RESPONDENTS

COUNTER AFFIDAVIT FILED ON BEHALF OF
RESPONDENTS 1 to 3.

I, A.V.P.Rao, S/o Late Somasekhara Rao aged
about 50 years, Occupation: Govt.Service, resident of
Hyderabad do hereby solemnly affirm and state as follows:

Handwritten signature: A.V.P. Rao
11/7/92

I am the Sr.Administrative Officer in the
office of the Third Respondent and as such I am fully
acquainted with all facts of the case. I have read the
application filed by the applicant and noted the contents
thereof. I am filing this counter affidavit on my behalf
and on behalf of other respondents as I have been autho-
rised to do so. The material averments in the Application
are denied save those that are expressly admitted herein.
The applicant is put to strict proof of all such averments
except those that are specifically admitted hereunder.

2. At the outset it is submitted that the application
is liable to be dismissed in limine as the applicant has
not exhausted the Departmental remedies before filing this
application as required under Section 20 of the Central Ad-
ministrative Tribunal's Act ~~1985~~ 1985.

3. It is submitted that the applicant was found
guilty of attempt to molest the modesty of the wife of a
colleague and the disciplinary authority, after conducting

contd....2

Handwritten signature: A.V.P. Rao
Senior Administrative Officer
Southern Region
Geological Survey of India

Handwritten signature: A.V.P. Rao
Senior Administrative Officer
Southern Region
Geological Survey of India

Departmental inquiry as per the Provisions of the C.C.S. (CCA) Rules, has imposed the penalty of 'Compulsory Retirement' vide Order No.195/C.14013/7/89-Vig dated 19.2.1992 against which the present application has been filed immediately after the award of punishment without fulfilling the requirements of Section 20 Central Administrative Tribunal Act.

4. It is submitted that this is not a case of no evidence and the applicant has no valid or compelling reasons viz. denial of Natural Justice/reasonable opportunity to invoke the extraordinary jurisdiction of this Hon.'ble Tribunal for redressal without complying with the provisions of the Central Administrative Tribunal Act. The application is therefore liable to be dismissed on this ground alone.

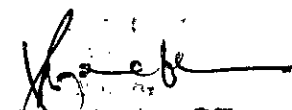
5. Without prejudice to the above preliminary objection, the following submissions are made on the points raised in the application:


6. The averments contained in para VI (a) & (b) pertain to the brief background of the disciplinary proceedings leading to the present application and therefore need no comments.

7. In reply to para VI (c) it is submitted that the penalty under Rule 14 of the CCS (CCA) Rules, 1965 of Compulsory Retirement imposed on the applicant is valid, legal and perfectly in order, as the same has been imposed by the competent authority after due process and in accordance with the provisions of CCS (CCA) Rules.

8. In reply to Para VI (i) it is submitted that the attempt to molest the wife of an Officer and colleague during office hours within the office premises (i.e. in the Geophysical camp located near Paramakallu village, Karnataka) and his irresponsible behaviour in sending the chowkidar away from camp thereby exposing the Govt. property to security risk constitute misconduct under the provisions of CCS (Conduct) Rules, 1964. The disciplinary proceedings conducted and the penalty imposed are therefore valid and in order. Non-filing of a criminal case by the aggrieved party does not forbid the Department from initiating Departmental proceedings when misconduct is brought to its notice as contended by the applicant.

contd...3.


Administrative Officer,
Geological Survey of India
Southern Region, Hyderabad.


Senior Administrative Officer
Southern Region
Geological Survey of India

(24)

9. In reply to para VI (ii) it is submitted that the allegation that the Disciplinary authority and Inquiry Officer are prejudiced and biased against the applicant are baseless, totally false and not borne out by facts. Therefore denied. The applicant is put to strict proof of the same.

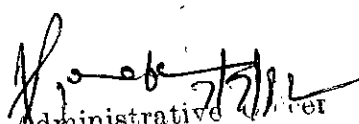
10. Regarding the averments that original documents relied upon have not been marked in the inquiry and applicant had not been furnished with the copies contained in para VI (iii) are denied. The procedure laid down under Rule 14 of the CCS (CC&A) Rules (Govt. of India Instructions (22) and (26) in connection with the inspection of documents/supply of copies have duly been followed. The Rule position has been brought to the notice of the applicant on 21.7.1989.

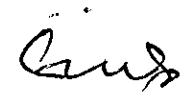
11. Regarding denial of opportunity to cross-examine ~~any~~ of the witnesses to the applicant, it is submitted that it is evident from the proceedings of the inquiry that the occasions ~~involved~~ on which the Inquiry Officer had intervened in the examinations of the witnesses are very few and occasions involving alleged denial of reasonable opportunity to the defence Counsel to cross examine the witnesses are totally absent.

12. In reply to para VI (iv) it is submitted that nothing could be farther from truth than the averment that the findings of the Inquiry Officer are 'wholly perverse, baseless etc. A cursery reading of the Inquiry report itself clearly indicates that the records/oral dispositions have been analysed and conclusions have been arrived at relying upon the circumstantial evidence in accordance with the provisions of CCS (CC&A) Rules. The dispassionate discussions in respect of each article of charge vis-a-vis evidence adduced contained in the Inquiry report dispel the averments contained in the para.

13. The averment that the disciplinary authority has passed the impugned order ~~in~~ a most mechanical way is denied. It is submitted that the Inquiry Report itself is a document containing elaborate discussions/analysis of the records/depositions of the witnesses on each of

contd...4.


Senior Administrative Officer
Southern Region
Geological Survey of India


Senior Administrative Officer
Southern Region
Geological Survey of India

conclusions the articles of charge with detailed explanations arrived at by the inquiry officer. ~~in respect of~~ The disciplinary authority after careful consideration of the said report alongwith the relevant documents and explanation of the applicant on the Inquiry report has come to the conclusion that the conclusions of the inquiry officer are well founded and therefore concurred with them. The order of the Disciplinary Authority is therefore in order.

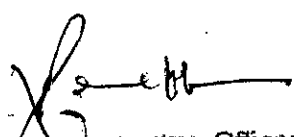
14. In reply to the averments contained in paras VI (vi) and (vii) it is submitted that the alleged 'extra-neous considerations' 'bias and prejudice' and 'pre-determination to punish the applicant' by the Disciplinary authority and inquiry officer have no basis and therefore false due to the simple fact that two different Sr.Dy.Directors General (disciplinary authorities at different stages of the disciplinary proceedings) were concerned with the issue of charge sheet and imposition of penalty. Just because the applicant has been awarded with a penalty it cannot be assumed that all the officers connected with the case at different stages are against the applicant.


15. With regard to para VI (viii) it is submitted that the disciplinary proceedings under reference have been conducted strictly in accordance with the provisions of the CCS (CC&A) Rules and there is no violation of any of the provisions as alleged by the Applicant.

16. In reply to Para VI (ix) it is submitted that for the reasons already stated vide para 4 above the misconduct of the applicant attracts the provisions of CCS (Conduct) Rules and the inquiry instituted and penalty imposed are therefore legal and valid.

17. In reply to Para VI (x) it is submitted that the Rules of Evidence contained in Evidence Act are not applicable in toto to Deptl. proceedings. The evidence as per the standards prescribed for Deptl. Proceedings in CCS (CC&A) Rules have strictly been followed.

Contd...5.

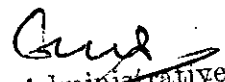

Administrative Officer,
Geological Survey of India
Southern Region, Hyderabad.


Senior Administrative Officer
Southern Region
Geological Survey of India

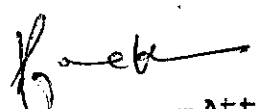
(36)

The oral/documentary evidence adduced before the Inquiry officer is sufficient enough to hold the applicant guilty of the charges and impose the penalty in accordance with the provisions of CCS (CC&A) Rules. It is submitted that the alleged lacunae in conducting the oral inquiry listed in the application are not based on facts but borne out of the imagination of the applicant.

18. In view of the above submissions it is clear that the applicant has not made out any case and there is no merit in the O.A. For the reasons stated above the Hon.'ble Tribunal may be pleased to dismiss the O.A. with cost and pass such other or further orders as it deems fit and proper in the circumstances of the case.

DEPONENT 
Senior Administrative Officer
Southern Region
Geological Survey of India

Solemnly and sincerely
affirmed this 6th day
of July 1992 and he signed
his name in my presence.


Administrative Officer, Attester
Geological Survey of India,
Southern Region, Hyderabad

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AT HYDERABAD.

O.A. NO.123 OF 1992

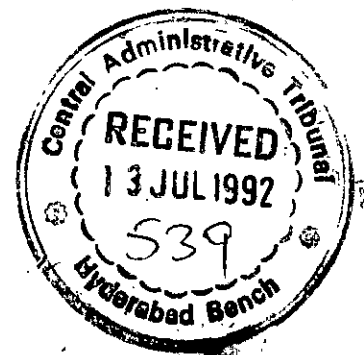
mei
21/6
COUNTER AFFIDAVIT

FILED ON :

FILED BY

Shri N.R.DEVARAJ

Central Govt.Standing Counsel,
HYDERABAD.



2/14/92

29

.. 2 ..

O.A.No.123/92

Date of Order: 21.2.95

X As per Hon'ble Shri A.V.Haridasan, Member (Judl.) X

- - -

This application has been filed by the applicant who was a Surveyor in Geological Survey of India impugning the order dt. 14.2.92 by which he was compulsorily retired from service by way of punishment. The respondents in their reply have inter-alia taken a contention that the application is not reasonable as the applicant has failed to exhaust the departmental remedy statutory provided. But the application has already been admitted. When the application came up for final hearing it is noted that the dispute in this case is not which can be finally adjudicated by a Single Member. But the counsel on either side submits that as the applicant has not preferred an appeal to the appellate authority against the impugned order if he files an appeal now the same would be considered and disposed of by the appellate authority and in view of the matter the application may be disposed of without entering into an adjudication with a proper direction to the applicant and to the respondents with regard to the filing of the appeal there of by the appropriate appellate authority.

2. In the light of the above submission of the learned counsel on either side the application is disposed of with the following directions:

The applicant may file an appeal against the impugned order dated 10.2.92 within a period of one month from the date of receipt of a copy of this order.

28

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH
AT HYDERABAD.

O.A.NO.123 of 1992.

Between

Dated : 21.2.1995.

C.Sundaresan

...

Applicant

-Vs.

1. The Union of India, repd by the Secretary, Department of Mines, Ministry of Steel & Mines, ~~Ministry~~ Central Secretariat, New Delhi.
2. The Director General, Geological Survey of India, Calcutta.
3. Senior. Dy. Director General, Geological Survey of India Southern Region, G.S.I.Complex, Bandalaguda, Hyd.

...

Respondents

Counsel for the Applicant : Sri. V.Venketsswara Rao

Counsel for the Respondents : Sri. N.R.Devaraj, Sr. CGSC.

CORAM:

Hon'ble Mr. A.V.Haridasan, Judicial Member

Contd:....2/-

30

.. 3 ..

If such an appeal is filed within the afore-stated period the second respondent shall as agreed to by the respondents counsel dispose of the appeal on merits by passing a reasoned order within a period of three months from the date of receipt of the appeal though filed beyond the period prescribed for filing the appeal. No order as to costs.

CERTIFIED TO BE TRUE COPY
[Signature]
Date.....24/3/25.....
Court Officer
Central Administrative Tribunal
Hyderabad Bench
Hyderabad.

sd

Copy to:-

1. Secretary, Department of Mines, Ministry of Steel & Mines, Union of India, Central Secretariat, New Delhi.
2. The Director General, Geological Survey of India, Calcutt.
3. Senior Dy. ~~xxxx~~ Director General, Geological Survey of India, Southern Region, G.S.I. Complex, Bandalaguda, Hyd.
4. One copy to Sri. V.Venkateswara Rao, advocate, CAT, Hyd.
5. One copy to Sri. N.R.Devaraj, Sr. CGSC, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

Rsm/-

* * *

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD

R.A./M.A/C.A. NO.

OF 199

ORIGINAL APPLICATION NO.

123/92

TRANSFER APPLICATION NO.

OLD PETN. NO.

Certified

CERTIFICATE

Certified that no further action is required to be taken
and the case is fit for consignment to the Record Room(Decided)

Dated: 23/3/95

Counter Signed.

Court Officer/Section Officer.

YLKR

Signature of the Dealing Asst.

* * *

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH
AT HYDERABAD.

O.A.NO.123 of 1992.

Between

Dated : 21.2.1995.

C.Sundaresan

...

Applicant

Vs.

1. The Union of India, rep'd by the Secretary, Department of Mines, Ministry of Steel & Mines, ~~Ministry~~ Central Secretariat, New Delhi.
2. The Director General, Geological Survey of India, Calcutta.
3. Senior. Dy. Director General, Geological Survey of India, Southern Region, G.S.I.Complex, Bandalaguda, Hyd.

...

Respondents

Counsel for the Applicant : Sri. V.Venkateswara Rao

Counsel for the Respondents : Sri. N.R.Devaraj, Sr. CGSC.

CORAM:

Hon'ble Mr. A.V.Haridasan, Judicial Member

Contd:....2/-

99

.. 2 ..

O.A.No.123/92

Date of Order: 21.2.95

X As per Hon'ble Shri A.V.Haridasan, Member (Judl.) X

- - -

This application has been filed by the applicant who was a Surveyor in Geological Survey of India impugning the order dt. 14.2.92 by which he was compulsorily retired from service by way of punishment. The respondents in their reply have inter-alia taken a contention that the application is not reasonable as the applicant has failed to exhaust the departmental remedy statutory provided. But the application has already been admitted. When the application came up for final hearing it is noted that the dispute in this case is not which can be finally adjudicated by a Single Member. But the counsel on either side submits that as the applicant has not preferred an appeal to the appellate authority against the impugned order if he files an appeal now the same would be considered and disposed of by the appellate authority and in view of the matter the application may be disposed of without entering into an adjudication with a proper direction to the applicant and to the respondents with regard to the filing of the appeal there of by the appropriate appellate authority.

2. In the light of the above submission of the learned counsel on either side the application is disposed of with the following directions:

The applicant may file an appeal against the impugned order dated 10.2.92 within a period of one month from the date of receipt of a copy of this order.

an

30

.. 3 ..

If such an appeal is filed within the afore-stated period the second respondent shall as agreed to by the respondents counsel dispose of the appeal on merits by passing a reasoned order within a period of three months from the date of receipt of the appeal though filed beyond the period prescribed for filing the appeal. No order as to costs.



(A.V. HARIDASAN)
Member (Judl.)

Dated: 21st February, 1995

(Dictated in Open Court)


Dy. Registrar (Judl.)

sd

Copy to:-

1. Secretary, Department of Mines, Ministry of Steel & Mines, Union of India, Central Secretariat, New Delhi.
2. The Director General, Geological Survey of India, Calcutta.
3. Senior Dy. ~~xxxx~~ Director General, Geological Survey of India, Southern Region, G.S.I. Complex, Bandlaguda, Hyderabad.
4. One copy to Sri. V. Venkateswara Rao, advocate, CAT, Hyderabad.
5. One copy to Sri. N.R. Devaraj, Sr. CGSC, CAT, Hyderabad.
6. One copy to Library, CAT, Hyderabad.
7. One spare copy.

Rsm/-

In the CAT Hyd Bench
Hd.

Hon Mr. A.V. Hanuman. Jm.

Judgement dt. 21.2.95

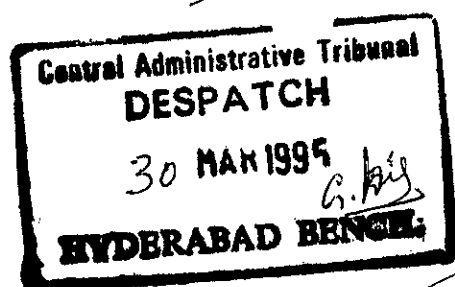
in

OA. 123/92

OA. disposed of. 100
order as to costs.

⑦

NO SPARE COPY



[Handwritten signature]

List of Papers in Original Application No.

PA 42/95 w OA 123/99

| Sl.No.Of Papers. | Date of Papers Or Date of Filing. | Description of Papers. |
|---------------------|---|---------------------------|
|---------------------|---|---------------------------|

Part ²/₂ I

5-9-95

Original Judgement

21-4-95

P.A. & Meterial Papers.
Counter

Reply Counter

PART --- I, PART --- II, PART --- III
Destroyed.

A
23/3/99

CENTRAL ADMINISTRATIVE TRIBUNAL

R.P. 42/95 ~ HYDERABAD BENCH

RECORD SECTION INDEX SHEET

O.A. No. 123. /199

- a) Applicant (S) C. Sundaresan
- Versus
- b) Respondent (S) The secretary of steel & mines new Delhi.

| Sl.No. | Description of Documents. | Page. No. |
|--------|--|-----------|
| | <u>Part. I</u> | |
| | Order Sheet | 1 |
| | review. Original Application | 2 to 4 |
| | Ma-terial Papers | 4A to 13. |
| | Order dated <u>5-9-95.</u> | 14 & 15. |
| | Counter Affidavit. | |
| | Reply Affidavit | |
| | Order dated | |
| | <u>Part. II</u> | |
| | Duplicate Order Sheet. | |
| | " Application | |
| | " Material Papers | |
| | " Order dt. | |
| | " Counter Affidavit | |
| | " Reply Affidavit | |
| | " Order dt. | |
| | <u>Part-III</u> | |
| | Vakalat <u>x</u> | |
| | Notice Papers <u>x</u> | |
| | Memo of Appearance <u>x</u> | |

BN
6/10/95.

(42)

CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH:AT

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

~~AND~~
THE HON'BLE MR. A. V. HARIDASAN: MEMBER (JUDL) (Singh)

~~AND~~
THE HON'BLE MR. A. B. GORTHY: MEMBER (ADMN.)

~~AND~~
THE HON'BLE MR. R. RANGARAJAN: MEMBER (ADMN.)

MA. No. 425/45
in

REVIEW APPLICATION NO. 42 OF 1995

in

ORIGINAL APPLICATION NO. 123 OF 1992

The above Review Application has been filed against the Judgement of the Bench dated 21-2-45 of the Tribunal consisting of Hon'ble Mr. Justice V. Neeladri Rao, Vice-Chairman and Hon'ble Mr. A. V. Haridasan, Member (J) and Hon'ble Mr. A. B. Gorthy, Member (A) and Hon'ble Mr. R. Rangarajan, Member (A) in Original Application No. 123 of 1992

Circulated, as per Rule 17(3) of the Central Administrative Tribunal (Procedure) Rules, 1987.

Submitted.

24/4
28/4/95

0

O.A. NO. 123 of 1995

versus

Secretary, Min. of steel & mines, N. Delhi & 20th

Respondent (s)

| Date | Office Note | Orders |
|------|-------------|--------|
| | | |

ANNEXURE - T

FORM OF INDEX

List of papers in MP/CR/RA/NO. 42-/95 in O.A. NO. 123 /1995

| Serial NO. of papers, on record part I part II part III | Date of paper or Date of filing | Description of papers | Remarks |
|---|---------------------------------------|--------------------------|---------|
|---|---------------------------------------|--------------------------|---------|

21/1/95 Petition 3.S. copy
attached

HYDERABAD DI

IN THE CENTRAL ADMINISTRATIVE
TRIBUNAL AT HYD.

R.P.No. of 1995

in

B.A.No. 123 of 1992

Between:

The-Union



REVIEW PETITION

*Recd
21-4-95
R.N.R. Davary
an*

Miss Vemuri Venkateswar Rao
and K. Phaniraju

Counsel for the Petitioner
(Applicant)

(2)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD

R.P.No. 42 of 1995

in

O.A.No. 123 of 1992

Between:

C. Sundaresan

S/o.

aged about years,

Occ: Ex-Surveyor, Geological

Survey of India

Hyderabad-500068 R/o Trivandrum

-- Petitioner (Applicant)

and

1. The Union of India represented by its Secretary, Ministry of Steel & Mines, New Delhi.
2. The Director General, Geological Survey of India, Calcutta.
3. The Sr. Dy. Director General, Geological Survey of India, Southern Region, Hyderabad-500068 -- Respondents (Respondents)

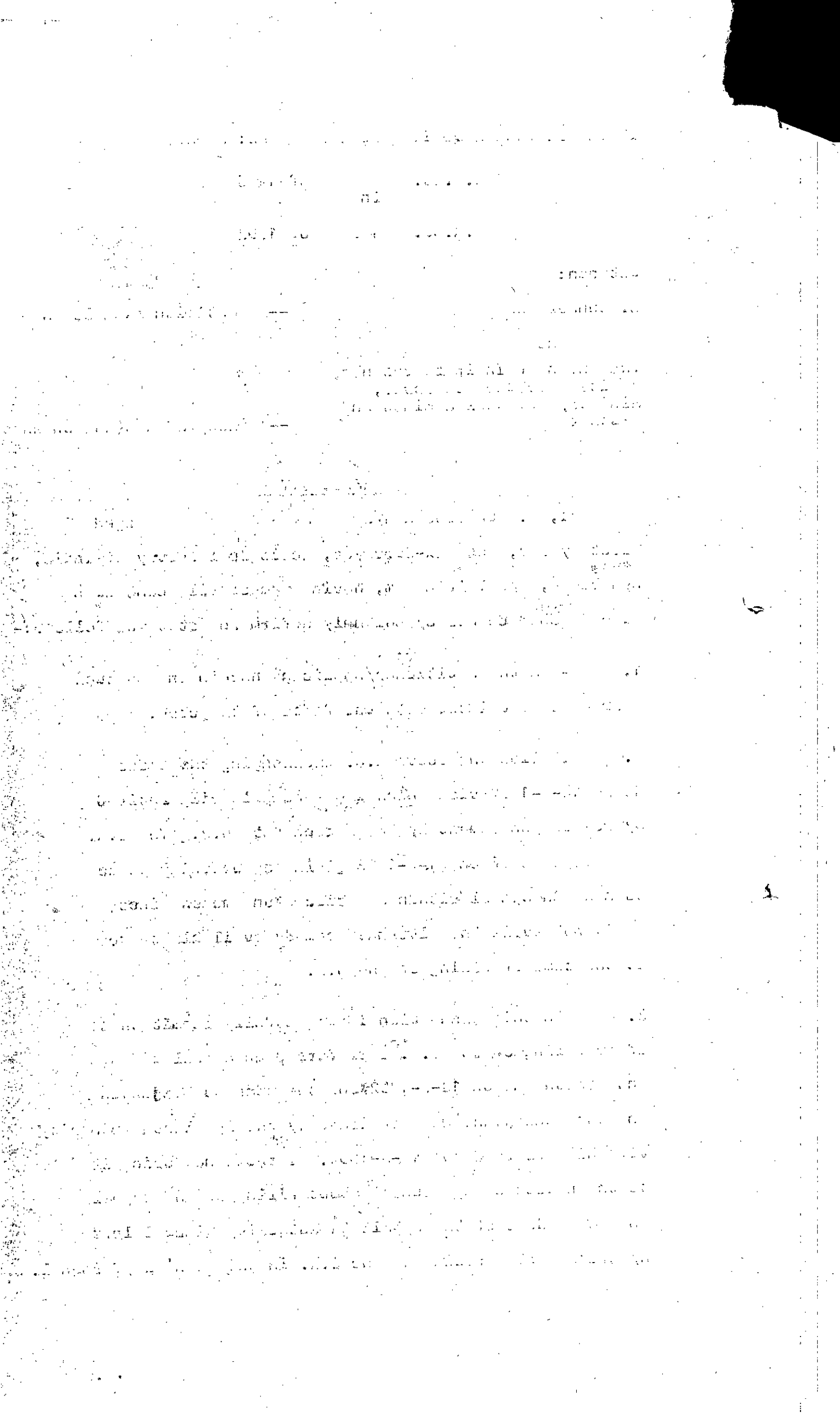
REVIEW PETITION UNDER SEC. 22 (F) OF
ADMINISTRATIVE TRIBUNALS ACT 1985
R/w Sec. 17 of ADMINISTRATIVE
TRIBUNALS RULES PROCEDURE RULES
1987

For the reasons stated in the accompanying affidavit it is prayed that this Hon'ble Tribunal may be pleased to review its order dated 21-2-1995 in O.A. 123 of 1992 and dispose of the O.A. on merits or pass such other order or orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

Hyderabad,

Dated: 27-4-1995

10
Counsel for the Petitioner
(Applicant)



(3)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: AT HYDERABAD

R.P.No. 42 of 1995
in

O.A.No. 123 of 1992

Between:

C. Sundaresan -- Petitioner(Applicant)

and

The Union of India represented
by its Secretary to Govt.,
Ministry of Steel & Mines and
2 others

-- Respondents(Respondents)

AFFIDAVIT

I, C. Sundaresan S/o Challeppan aged
about years, Occ Ex-Surveyor, Geological Survey of India,
Hyderabad, R/o Trivandrum, having temporarily come down
to Hyderabad do hereby solemnly affirm and state as follows:-

1. I am the Petitioner/Applicant herein and as such I am well acquainted with the facts of the case.
2. I filed the above O.A. challenging the order dated 10-2-1992 vide which I was compulsorily retired by way of punishment by the Respondent No.3. The O.A. was disposed of on 21-2-1995 giving opportunity to me to make an appeal within a period of one month since I did not avail the alternate remedy available to me at the time of filing of the O.A.
3. In this connection I respectfully submit that after filing of the O.A. I preferred an appeal to the 2nd Respondent on 13-3-1992 and the same was rejected and the punishment was confirmed by the appellate authority vide his orders dated 13-5-1994. I could not bring it to the notice of my counsel about filing of the appeal and the orders of the appellate authority since I left Hyderabad after filing of the O.A. in this Hon'ble Tribunal.

Consequently my counsel could not present the copies of the appellate authority before this Hon'ble Tribunal. As such the O.A. was disposed of for availing alternate remedy. My failure to bring to the notice of my counsel about the passing of the order of the appellate authority is an error apparent on the record due to the reasons stated above. As such an arrear on my part is neither wilful nor deliberate.

4. Hence this Hon'ble Tribunal may be pleased to permit me to file a copy of my appeal dated 13-3-1992 and the order dated 13-5-1994 of the appellate authority and pass any other order or orders as this Hon'ble Tribunal deem fit.

It is therefore prayed that this Hon'ble Tribunal may be pleased to review its order dated 21-2-1995 in O.A.123 of 1992 and dispose of the O.A. on merits and pass any other order or orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

Solemnly affirmed and signed
before me on this 24th day of
April, 1995.

Advocate: Hyderabad

X Sundaram. C
Deponent

(4-A)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH :
AT HYDERABAD

O.A.No:123 OF 1992.

Between:

Dated:21.2.1995

C. Sunderashan

... Applicant

And

1. The Union of India, repd. by the Secretary, Department of Mines, Ministry of Steel & Mines, Central Secretariat, New Delhi.
2. The Director General, Geological Survey of India, Calcutta.
3. Senior, Dy. Director General, Geological Survey of India, Southern Region, G.S.I.Complex, Bandalaguda. Hyd.

... Respondents

Counsel for the Applicant : Sri V. Venkateswara Rao

Counsel for the Respondents : Sri N. R. Deveraj Sr. CGSC.

ORDER:

Hon'ble Mr. A.V.Haridasan, Judicial Member

O.A.No:123/92

Date of Order:21.2.'95.

As per Hon'ble Sri A.V.Haridasan, Member (Judl.)

- - -

This application has been filed by the applicant who was a Surveyor in Geological Survey of India impugning the order dt.14.2.'92 by which he was compulsorily retired from service by way of punishment. The respondents in their reply have inter-alia taken a contention that the application is not reasonable as the applicant has failed to exhaust the departmental remedy statutory provided. But the application has already been admitted. When the application came up for final hearing it is noted that the dispute in this case is not which can be finally adjudicated by a Single Member. But the Counsel on either side submits that as the applicant has not preferred an appeal to the appellate authority against the impugned order if he files an appeal now the same would be considered and disposed of by the appellate authority and in view of the matter the application

may be disposed of without entering into an adjudication with a proper direction to the applicant and to the respondents with regard to the filing of the appeal there of by the appropriate appellate authority.

2. In the light of the above submission of the learned Counsel on either side the application is disposed of with the following directions:

The applicant may file an appeal against the impugned order dated 10.2.'92 within a period of one month from the date of receipt of a copy of this order. In such an appeal is filed within the afore-stated period the second respondent shall as agreed to by the respondents counsel dispose of the appeal on merits by passing a reasoned order within a period of three months from the date of receipt of the appeal though filed beyond the period prescribed for filing the appeal. No order as to costs.

CERTIFIED TRUE COPY
Sd/-XX XX XX XX X
Date 24.03.95
Court Officer
Central Administrative Tribunal
Hyderabad Bench
Hyderabad.

// True copy //

GOVERNMENT OF INDIA

No.C-13013/2/CS/SR/90-Vig

Geological Survey of India
27, Jawaharlal Nehru Road,
Calcutta-16,

Dt.13-05-1994.

OFFICE ORDER

Whereas Shri C. Sunderasan Ex-Surveyor, GSI, SL. Hyderabad was charge-sheeted under Rule 14 of CCS (CO & A) Rules, 1985 for alleged behaviour and is conduct with S t.K. Rama Devi wife of Sri K. Chandramouli, Asst.Geophy. and for sending the watchman out of the Camp without having any authority and thereby violating the provisions of Rule 5 of CCS (Conduct) Rules, 1964.

And Whereas departmental enquiry was ordered by the disciplinary Authority and the Inquiry was conducted in accordance with procedure laid down in CCS (CO & A) Rules, 1965.

Andwhereas on the basis of the findings of the inquiry Report, the Disciplinary Authority awarded the major penalty of "Compulsory Retirement".

And whereas AShri Sunderasen, Ex-Surveyor has submitted an appeal dated 13.3.'92 to the undersigned wherein he has mentioned the following points :

- (i) Smt. K. Rama Devi, wife of Shri K. Chandramauli. Asstt. Geophysicist was an outsider and a non-official /erson, whose complaint should not have been the basis of disciplinary action.
- (ii) As an outsider Smt. K. Rama Devi should have complained to the Law and order machinery of the state and lodged FIR in the Police Station.
- (iii) The Inquiry Officer was prejudiced against him.
- (iv) Original documents relating to the case had been wilfully misplaced.
- (v) The Inquiry Officer relied more on extraneous events than the evidences which has vitiated the proceedings.
- (vi) Shri Sunderasen has urged the undersigned for setting aside the order of compulsory retirement imposed by the Disciplinary authority.

And whereas, the undersigned in exercise of the powers of Appellate authority under CCS (CC & A) Rule, 1965 has considered the appeal with reference to the entire disciplinary case, prescribed rules and procedures and the documents on records and concludes the following:

- (i) Shri Sunderason has committed grave misconduct unbecoming of a Govt. servant towards K. Rama Devi, wife of Sri K. Chandramauli, Asstt. Geophy, during office hours in the Office premises. As a Govt. servant Shri Sunderason is expected to behave in a manner becoming of a Govt. servane not only with relation to his colleagues in the of the but with the public also.

(P)

:: 4 ::

- (ii) Smt.K. Rama Devi, wife of K. Chandramauli, who is an officer of the GSI had every right to complain to the Administrative Authority for the misconduct committed to her by Sri Sunderesen who was/colleagues of her husband and it was her prerogative to decide whether to lodge an FIR with Police or not.
- (iii) The Presenting Officer produced relevant seven documents in original and xerox copy of the document only which was accepted by the Inquiry Officer as an evidence only with the concurrence of Shri Sunderesen and his Defence Assistant.
- (iv) The Inquiry proceedings under CCS (CC & A) Rules are quasi-judicial proceedings and the inquiry officer has come to his conclusion after taking into consideration the preponderances of probability.
- (v) There is no evidence of bias on the part of the Inquiry Officer who has conducted the Inquiry Strictly in accordance with the laid down rules.

Now, therefore, I hereby confirm the penalty of Compulsory Retirement awarded by the disciplinary Authority.

Please acknowledge the receipt of the order.

Sd/- xx xx xx
(D B DIMRI)
Director General (Acq.)
Geological Survey of India.

To

Sri C. Sunderason,
Ex-Surveyor,
Southern Region,
Geological Survey of India,
Hyderabad.

No.C 486-13013/2/CS/SR/90-Vig

date 13th May, 1994.

Copy forwarded to Dy. Director General, S.R., G S I., Hyderabad for favour of information and necessary action and suborserment of copies to appropriate authorities, This has reference to their letter No. 988/C-14013/8/89-Vig. dt.21.7.'93.

Sd/- xx xx xx
(P N MAULIK)
Officer on Spl.Duty (Vig.)
Geological Survey of India.

// true copy //

To

The Director General,
Geological Survey of India,
27, Jawaharlal Nehru Road,
C A L C U T T A - 700 016.

Sub: APPEAL against order of Compulsory
Retirement under Rule 23 (ii) of CCS
(CCA) Rules, 1965 -

Ref: Order No.195/C.14013/7/89-Vig.dated
10-2-1992 relating to compulsory re-
tirement under Rule 11 (viii) of CCS
(CCA) Rules, 1965 issued by the
Sr. Dy. Director General, Geological
Survey of India, Southern Regional
Office, Hyderabad - A.P. -

* * *

S I R,

The Applicant prefers this appeal before your benignself in terms of Rules 23 (ii) of CCE (CCA) Rules, 1965 against the order of compulsory retirement passed by the Senior Deputy Director General, Geological Survey of India, Southern Region Hyderabad, under Rule 11 (Viii) of CCS (CCA) Rules, 1965 - vide Order referred to above (copy enclosed) as disciplinary authority of Southern Regional Office, Hyderabad:

1. That the applicant has got adequate ground to feel aggrieved of the punishment inflicted upon the Appellant by the Disciplinary Authority on the basis of the report submitted by the Inquiry Officer though it has been established beyond doubt that the imputation of charges has neither been proved with documentary evidence nor it could produce prosecution witnesses but the observation recorded by the Inquiry Officer in his report exhibited the facts of gross incensistencies apart from the fact that it was a peremptory judgement out of prejudiced outlook.

2. That, it is, therefore, necessary to consider appeal of the appellant on the basis of three major guidelines enumerated below :

- (i) Whether the procedure laid down in the rules has been complied with and if not whether such non-compliance has resulted in violation of any provision of the constitution or in the failure of justice :

9

:: 6 ::

- (ii) Whether findings of the disciplinary authority are warranted by the evidence on the record of the case; and
- (iii) Whether the penalty or the enhanced penalty is adequate, inadequate or severe.

3. That the applicant further humbly submits that the order relating to inflicting severe punishment is not maintainable for various other factors connected with the case and are explicitly enumerated below for sympathetic consideration of the Appellate Authority.

4. That the Appellant had submitted suo-moto statement in response to the Letter No.30/C.14013/7/89-Vig.dated 1-1-1992 to the disciplinary authority and urged for impartial view so that natural justice is not denied in any extraneous consideration.

5. That according to the context of the charge-sheet served on the appellant under Rules 14 of CCS (CCA), 1965 the crime alleged to have been committed by the Applicant on 8-4-1989 against one SMT. K. RAMA DEVI who was an outsider and non-official and it remains to be a matter of doubt and suspicion as to what has prevented the complainant to explore law and order machinery of the State against the alleged crime of the Appellant. This material factor remained unresolved during the enquiry proceedings and facts remain that Inquiry Officer has hastily arrived at a conclusion to establish the imputation of charges against the accused-appellant without any valid ground, It is also inseparable question that the complaint to Geological Survey of India authorities after a lapse of nine days from the date of alleged incident. Whereas in case of criminal involvement of Central Government Employee with an outsider it would have been a matter of logical consequence to lodge F.I.R. at the nearest Police Station against such criminal offence.

6. That the appellant rightfully contends that unless this cardinal point of the case is not resolved with documentary evidence there is hardly any scope for the disciplinary authority

(10)

to summarise the enquiry to establish the bonafide of the complaint and consequently the decision of the disciplinary authority cannot be fair and just. Deposition of prosecution witness before the Inquiry Committee was not adequate to establish the correctness of the complaint and the Inquiry Officer has taken undue liabilities to establish the validity of the deposition for violating the regulatory norms of the proceedings. The Inquiry Officer while recording his observations stated on page (9) Para 5.1 Page (9) para 5.1. of the Inquiry Report that the person who has option to select any kind of modalities to exhaust against criminal offence, it can be done independently without going to the question of propriety of preferring official proceedings by an outsider instead of seeking redressal through the law and Order Machinery of the State.

7. That it is further pertinent to place it in record for kind consideration of the Appellate Authority that the complainant is an outsider and involvement of an outsider in Criminal case with a Central Employee it is the only course left for an outsider to seek remedy against alleged criminal offence of the Appellant of the Law and Order Machinery of the State Government.

8. That the Disciplinary Authority on receipt of complaint against the Central Employee from an outsider cannot arbitrarily decide to initiate disciplinary proceedings under Rule 14 of CCS (CCA) Rules of 1965 unless there is a prima facie merit of the case. The complainant has not gone to the nearest Police Station for lodging F.I.R. instead of preferred to lodge written complaint to the Authority after the lapse of nine days from the date of incident out of instigation of some vested interest. It can therefore fairly be adjudged that there was no prima facie evidence before the Disciplinary Authority for favour of initiating disciplinary proceedings against the appellant though the entire disciplinary proceedings carried on by the Inquiry Officer out of prejudicial outlook and apparently it was manifestation of the

determination to inflict punishment on the applicant on some pretext or the other.

9. That it is further necessary to place it on record in this appeal that all the original documents relating to this case has been wilfully and purposely misplaced by the Custodian and this factor along gives an evidence of fact as to how the entire matter has been concocted with meticulous planning out of malefide intention, vendetta and personal animosity. That the connected issue can further be overviewed from the Judgement delivered by the Central Administrative Tribunal, Madras Bench, in identical adjudication between - C. Kaniappen Vs. Director, Jawaharlal Institute of Postgraduates Medical Education of Research, 1990 (1) SLJ (CAT) 385 (Madras). The opinion of the Tribunal is reproduced below :

"...Where the imputation is with respect to conduct, totally unconnected with the discharge of the official duties but it relates purely to criminal offence against the private citizen, just because the matter is brought to the attention of the disciplinary authority, it is not justified in a straightway initiation disciplinary proceeding, without even ascertaining whether the criminal law is set in motion by the affected citizen.."

10. The above judgement of the CAT, Madras Bench, upheld the validity of the contention of the petition that the disciplinary authority cannot and could not abruptly decide the initiation of disciplinary proceedings against the complaint of a private citizen who instead of exhausting the Law and Order Machinery of the State against alleged criminal offence of the appellant preferred to utilize the CCS (CCA) Rules, 1965 obviously out of extraneous influence which is bad and improper for maligning an innocent Government Official. Apart from the fact that the punishment inflicted by the disciplinary Authority is not maintainable and does not hold good in terms of the provision of the rules in consideration of the essential factor that the complainant was an outsider and did not exhaust normal channel for remedy.

11. That the appellant has adequate reasons to believe that the disciplinary authority out of prejudicial outlook could not apply his mind to the main context of the report of the Inquiry Officer who has on almost all points of his analyses and conclusion relied more on extraneous event than the evidences which had its inherent legacy to substantiate the charges. Moreover, it is also important feature to note that the enquiry officer did not wilfully mention in his report that the Presenting Officer has lost all original documents relating to this case which is unintelligible and masks mala fide intention of the officers for inflicting punishment to the appellant.

The applicant on the strength of the sums and substances of the case described in this Appeal urges upon the Appellate Authority for favour of setting aside the order of the compulsory retirement invoked by the disciplinary authority - Wide Order dated 10-2-1992 for favour of restoration of justice and equity which have been denied, overlooked and enforced out of prejudicial consideration. The order of compulsory retirement of the disciplinary authority is not maintainable in terms of various grounds mentioned in the appeal and it is established beyond doubt that entire exercise has been carried on by the Administration on some extraneous consideration though this is one of the important factors deserves to be taken note of in this case that the husband of the complainant who was an employee of GSI left permanently and does not have interest or link whatsoever with Geological Survey of India for which Geological Survey of India cannot take care of the interest of the complainant in any consideration whatsoever under the provisions of Rule 14 of C.C.S. (C.C.A) Rules, 1965. Appellant prays for favour of admission of this appeal in the interest of restoration of justice.

Date: 13th March, 1992
Hyderabad-A.P.

Yours faithfully,
Sd/-xx xx xx
(C SUNDERASAN) Surveyor.
GSI, Planning & Co-ordination Divn. SR Off
"GSI Complex", Bandlaguda, Hyderabad-660.

Regl - Review application

DISTRICT : HYDERABAD

CENTRAL ADMINISTRATIVE TRIBUNAL
AT HYDERABAD

R.P.No: OF 1995

in

O.A.No: 123 OF 1992



Material Papers

| S1. No: | Description | Page Nos: |
|------------|--|--------------|
| 1. | ORDER in O.A.123/92 on the file of CAT, Hyderabad. | 1-2 |
| 2. | OFFICE ORDER No:C- 13013/2/CS/SR/90-Vig dt.13-05-'94 | 3-4 |
| 3. | Representation submitted by the applicant to the 2nd respondent. | 5-9 |

// True copy //

Filed On:21-04-1995

*Recd
By 4.95
N.R. Dargy*

Filed By: V VENKATESWARA RAO
K PHANI RAJU
K MURALI KRISHNA
COUNSEL FOR THE PETITIONER

*May be filed
on
25/4/95*

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD

R.A/M.A/C.A. NO.

425/95 + 42/95

ORIGINAL APPLICATION NO.

123 OF 1992

TRANSFER APPLICATION NO.

Certified

OLD PETN. NO.

CERTIFICATE

Certified that no further action is required to be taken and the case is fit for consignment to the Record Room (Decided).

Dated:

29/45

Counter Signed.

Court Officer/Section Officer.

Signature of the Dealing Asst.

YLKR

* * *

Copy to:-

1. The Secretary, Ministry of Steel & Mines, Union of India, New Delhi.
2. The Director General, Geological Survey of India, Calcutta.
3. The Sr. Dy Director General, Geological Survey of India, Southern Region, Hyderabad.
4. One copy to Sri. V.Venkateswara Rao, advocate, CAT, Hyd.
5. One copy to Sri. N.R.Devaraj, Sr. CGSC, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

Rsm/-

(14)

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD

M.A. No. 425/95 in

in

R.A. No. 42/95

in

OA 123/92

Hyderabad this day the 5th September, 1995

Hon'ble Mr. A.V. Haridasan, Vice Chairman (J)

Shri C. Sundaresan

Petitioner


Vs.

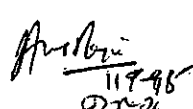
The Union of India represented
by its Secretary to Govt.
Ministry of Steel & Mines and
2 others.

Respondents

O R D E R

M.A. No. 425/1995 is only for permission to file a copy of his appeal dated 13.3.1992 and the order dated 13.5.1994 of the appellate authority. The O.A. was filed by the applicant impugning ^{an order} dated 14.2.1992 by which he was compulsorily retired from service. This application was disposed of by Order dated 21.2.1995 as a counsel on either side submitted that the same may be disposed of with a direction to the applicant to file an appeal against the Order of compulsorily retirement which would be considered by the appellate authority on merits. Now the review petitioner states that an appeal had already been filed by him which was rejected by the appellate authority vide his order dated 11.5.1994 and that this fact was not brought before the notice of the Bench by inadvertence. This is not a valid ground for a review of the Order. Therefore, the Review Application is rejected. It will be open for the applicant to file an Original Application impugning the appellate authority dated 13.5.1994 if necessary seeking condonation of delay in case the O.A. could not be filed within the period prescribed.


(A.V. Haridasan)
Vice Chairman (J)


11.9.95
Dra.

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

~~HON'BLE MR. K.E. GORTH, ADMINISTRATIVE MEMBER.~~

HON'BLE MR. *A.V. Hanidaram*
JUDICIAL MEMBER.

ORDER/JUDGEMENT:

DATED: *5/9/95* . 1995.

Sanjay
M.A./B.A./C.A. NO. *425/95* + *42/95*

IN

O.A. NO. *123/92*

T.A. NO. _____

(W.P. NO. _____)

ADMITTED AND INTERIM DIRECTIONS ISSUED.

ALLOWED.

DISPOSED OF WITH DIRECTIONS.

~~DISMISSED.~~

DISMISSED AS WITHDRAWN.

DISMISSED FOR DEFAULT.

ORDERED/REJECTED:

~~NO ORDER AS TO COSTS.~~

Rsm/-

No Spare Copy

