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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

O.A.No.986/93

Date of Order: 11.2.94

BETWEEN:

D.Veera Naik

.. Applicant.

A N D

1. Central Intelligence Officer,  
Subsidiary Intelligence Bureau(DDSI B),  
Taramandal Complex, Hyderabad.

2. Joint Director,  
Subsidiary Intelligence Bureau,  
Taramandal Complex,  
Hyderabad.

.. Respondents.

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Counsel for the Applicant

.. Mr.G.Gopala Rao

Counsel for the Respondents

.. Mr.N.R.Devraj, Sr. Counsel

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CORAM:

HON'BLE Mr.JUSTICE V.NEELADRI RAO : VICE-CHAIRMAN

HON'BLE Mr.R.RANGARAJAN : MEMBER (ADMN.)

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O.A.NO. 986/93

DOCUMENT

(AS PER HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN)

Heard Shri G.Gopala Rao, learned counsel for the applicant and Shri N.R.Devaraj, learned standing counsel for the respondents.

2. The applicant is working as Junior Intelligence Officer-II (M.T) in Subsidiary Intelligence Bureau (DDSIB), Hyderabad. The charge memo dated 14.10.1992 with the following charge was issued to the applicant:-

"Shri D.Veeranaik while functioning as JIO-II(MT) at the SIB Hqrs., Hyderabad on 3.9.1992 around 11.30 PM unauthorisedly entered the SIB Control room in a drunken condition hurling vulgar abuses at the Sentry (PC-350-M.A.Rahim) on duty and Shri M.Yadigiri, ACIO-II(G) in charge of Control Room. Further in his bid to seize the office telephone, he tore/flung office records, pushed aside office furniture and ~~xx~~ also attempted to physically assault Shri Yadigiri pulling the banian. Sri Veeranaik by his above misbehaviour conducted himself in a manner unbecoming of a Government servant thereby violating Rule 3(1)(iii) of the CCS (Conduct) Rules, 1964."

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P2 JV

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..3.

The disciplinary authority after tentatively accepting the findings given by the Inquiry Officer issued notice to the applicant by enclosing the copy of the report of the Inquiry Officer to enable the applicant to submit his objections, if any, as against the findings given by the Inquiry Officer. In the reply submitted to the said notice, the applicant stated inter alia that there is an infirmity as the Sentry Shri M.A. Rahim whom the applicant said to have abused was not examined even when he was cited as a witness for the department. Then the disciplinary authority remanded the same to the Inquiry Officer and then Shri M.A. Rahim was examined. Later, the disciplinary authority imposed the punishment by reducing the pay of the applicant by two stages from Rs. 1100/- to Rs. 1050/- in the pay scale of Rs. 975-1660 for a period of two years with effect from 1.6.1993 and it was further ordered that the official would not earn increments during the said period of two years and the reduction will have the effect of postponing his future increments of pay, as per the order dated 28.5.93 and the same was confirmed by the appellate authority. It is assailed in this OA.

3. The learned counsel for the applicant contended that there are three serious infirmities in the inquiry that was conducted and they are:-

1) that the Inquiry Officer was not justified in not summoning the defence witness cited by the applicant;

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ii) that the disciplinary authority was not empowered to remand the matter under Rule 15(1) of the ~~Railways~~ CCS (CCA) Rules to the Inquiry Officer after he accepted the findings of the Inquiry Officer; and

iii) that the Inquiry Officer should have given opportunity to the applicant to submit his written brief after the inquiry was completed after remand. ~~\_\_\_\_\_~~

4. It is contended that in view of the above irregularities, the order of punishment has to be set-aside.

5. It is next urged that even the report on the basis of the preliminary inquiry discloses that the applicant and Shri Bhupal Reddy suspected Shri Shravan Kumar in ~~order to~~ stealing the petrol from the office cars and they went to ~~meet~~ <sup>with</sup> Shri Sravan Kumar on the intervening night of 2/3.9.1992 and hence the applicant has ~~not~~ chosen to go to the control room to convey the same to the CIO on 2 4.9.1992 and when he was not permitted by Shri Yadigiri, he got agitated and hence a serious view should not have been taken about the incident and if <sup>it is</sup> ~~they~~ ~~xxxx~~ view <sup>at</sup> in that <sup>background</sup> ~~line~~, the punishment has to be held as excessive.

6. There is no statutory provision whereby the disciplinary authority is required to furnish a copy of the report ~~xxxxxx~~ of the Inquiry Officer to the delinquent employee before the punishment is awarded. But the Supreme Court held that as it will be a case of consideration of the findings of the Inquiry Officer by the

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disciplinary authority and as the same cannot be considered behind the back of the effected party, it is necessary to give opportunity to the delinquent employee to submit his objections, if any, as against the report of the Inquiry Officer. <sup>the</sup> ~~When~~ the said decision was given by the Supreme Court in Ramzan Khan's case, SCC 1992 (Feb) SC 127 (Union of India Vs. Mohd. Ramzan Khan) in view of the principles of natural justice and ~~as~~ it is not on the basis of the statutory provision ~~xxxxx~~, Rule 15(1) & (3) of the CCS (CCA) Rules have to be considered in that back ground. Rule 15(1) and (3) are as under:-

"15(1) The disciplinary authority, if it is not itself the inquiring authority may, for reasons to be recorded by it in writing, remit the case to the inquiring authority for further inquiry and report and the inquiring authority shall thereupon proceed to hold the further inquiry according to the provisions of Rule 14, as far as may be.

(2) xxxx      xxxx      xxxx      xxxx

(3) If the disciplinary authority having regard to its findings on all or any of the articles of charge is of the opinion that any of the penalties specified in clauses (i) to (iv) of rule 11 should be imposed on the Government servant, it shall, notwithstanding anything contained in

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Rule 16, make ~~the~~ an order imposing such penalty:

Provided that in every case where it is necessary to consult the Commission the record of the inquiry shall be forwarded by the disciplinary authority to the Commission for its advice and such advice shall be taken into consideration before making any order imposing any penalty on the Government servant."

In view of the judgment of the Supreme Court, it has to be held that when the disciplinary authority issued a notice to the delinquent employee by enclosing the report of the Inquiry Officer, it is a case of ~~a~~ tentatively accepting the findings given by the Inquiry Officer before such notice is given. If after consideration of the objections raised by the delinquent, the disciplinary authority feels it necessary to remand the matter to the Inquiry Officer, he can do so and there is no bar for remitting it at that stage. Thus, it will be ~~the~~ case of remitting to the Inquiry Officer even before the report of the Inquiry Officer was communicated to the delinquent employee or it may be a case of remitting it after considering the objections of the delinquent employee after the report of the Inquiry Officer was communicated to him. Thus, when the disciplinary authority in this case remitted the matter to the Inquiry Officer on consideration of the

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objections for the applicant after he received the notice along with the report of the Inquiry Officer, there is no infirmity and hence the question of the inquiry being vitiated does not arise.

7. Rule 14(9) of the CCS (CCA) Rules merely postulates that the Inquiry Officer may permit the delinquent employee to submit written brief after the inquiry is over. But it does not direct the Inquiry Officer to inquire the delinquent as to whether he intends to file any written brief. It is not a case where the applicant <sup>is</sup> contending that he was not permitted to file the written brief after completion of the inquiry. Thus, this contention also is not tenable.

8. The applicant cited M/s G. Ramaswamy, B.V. Narsaiah, T. Mallaiah, B. Bhupal Reddy and A. Jaipal Reddy, Drivers as defence witnesses. All of them were examined ~~at~~ <sup>in</sup> the preliminary investigation. Besides <sup>in</sup> them, Shri M. Bheema Rao ~~xxx~~ was also examined at the time of preliminary investigation and he was cited as witness at the time of the inquiry. The Inquiry Officer accepted the contention for the Presenting Officer that it is not necessary to multiply <sup>the</sup> witnesses in regard to the plea of the applicant that Shri Sravan Kumar was stealing the petrol from the vehicles of the department and others also. It may be noted that the charge is in regard to the abuse and assault and causing damage to the furniture etc. It is not the case of the applicant that the witnesses cited by him were present in

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the control room on the intervening night of 2/3.9.1992 at the time of the incident. So, we feel that in the circumstances, the Inquiry Officer was right in not summoning those drivers as witnesses as they had no personal knowledge about the alleged incident in the control room on that day.

9. Thus, all the above three contentions are not sustainable and hence we find that there is no irregularity in the Inquiry that was conducted.

10. But we cannot say that there is no force in the contention that the punishment is excessive. But it was held by the Supreme Court in Parmananda's case; AIR 1989 SC 1185 (Union of India Vs. Parmananda); that it is not open to this Tribunal to exercise the jurisdiction under Article 226 of the Constitution to interfere with the punishment even if it is held as excessive. Ofcourse, it will be <sup>different</sup> ~~fit~~ if the contention is that the punishment is highly excessive or that it shocks <sup>even</sup> the conscious.

11. It is clear even from the preliminary report that the applicant and Shri Bhupal Reddy wanted to report about the stealing of the petrol by Shri Sravan Kumar immediately and hence the applicant had gone to the control room on that night. Ofcourse, it is in the evidence of Shri C.R. Reddy that the applicant was in the drunken condition at the time of the incident and hence he could not properly dial the phone. But it has to be noted that the applicant was not on duty at that time and it cannot be stated that

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he had purposefully gone after taking the drink to have a row with either Shri Rahim or Shri Yadagiri who were in the control room. But it is a case where the applicant intended to report immediately after the incident of the alleged stealing. So, in view of the purpose for which he intended to phone then, and probably he might have been agitated when he was not immediately allowed to phone to the CIO, he might have behaved in the way in which it was referred to by Shri C.R.Reddy, JIO. It cannot be forgotten that it would be the matter for agitation on the part of the applicant as it would be a case of delaying so as to allow the person who was said to be stealing, <sup>to leave the place</sup> if in fact there was such stealing, as referred to by him. When it was not a mere case of reducing the period for two years but also the case of not allowing the applicant to earn increments during the period <sup>of</sup> reduction and that reduction would have the effect of postponing his future increments, the contention for the applicant that the punishment is excessive, cannot be held as untenable.

12. It has to be further noted that even in the reply filed for the respondents, ~~xxxxxx~~ it was stated that this OA is not maintainable as the applicant had not exhausted his remedy by way of revision. Any how, when we considered with regard to the contentions in regard to the alleged irregularities, there is no need again to direct the applicant to approach the revisional authority to challenge the findings of the disciplinary authority as confirmed by the appellate authority that he was guilty of the charge.

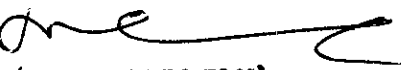
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But in view of our observations in regard to the contention as against the punishment, we feel that it is ~~the~~ <sup>only</sup> case where the applicant can be permitted to move the revisional authority ~~only~~ in regard to the punishment and that revisional authority has to consider the same if the revision petition is filed by 31.3.1994.

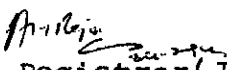
13. In the result, the findings of the disciplinary authority as confirmed by the appellate authority that the applicant is guilty of the charge as per the charge memo dated 14.10.1992 is confirmed. The applicant is free to move the revisional authority in regard to his plea that the punishment is excessive and if that revision is filed so as to reach the revisional authority by 31.3.1994, the latter has to dispose of the same by keeping in view the observations in this order, within three months therefrom.

14. The OA is ordered accordingly. No costs.

  
(R. RANGARAJAN)  
MEMBER (ADMN.)

  
(V. NEELADRI RAO)  
VICE CHAIRMAN

DATED: 11th February, 1994.  
Open court dictation.

  
Deputy Registrar(J)C.C.

To vsn

1. The Central Intelligence Officer, Subsidiary Intelligence Bureau (DDSIB) Taramandal Complex, Hyd.
2. The Joint Director, Subsidiary Intelligence Bureau, Taramandal Complex, Hyderabad.
3. One copy to Mr. G. Gopala Rao, Advocate, 16-10-105/8 Municipal colony, Main Road, Hyderabad.
4. One copy to Mr. N. R. Devraj, Sr. CGSC. CAT. Hyd.
5. One copy to Library, CAT. Hyd.
6. One copy to D. R. (J) CAT. Hyd.
7. Copy to All Reporters as per standard list of CAT. Hyd.
8. One spare copy.

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*Rover*  
*21/3/94*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

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

AND

THE HON'BLE MR. A. E. GORTHI : MEMBER (A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY  
MEMBER (JUDGE)

AND

THE HON'BLE MR. R. RAMARAJAN : MEMBER  
(ADMIN)

Dated: 11-2-1994.

ORDER/JUDGMENT:

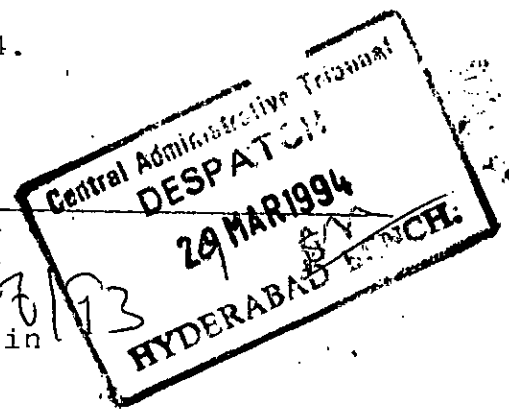
M.A./R.A/C.A. No.

*CA 988/93*  
*in*

O.A.No.

T.A.No.

(V.P.No. )



Admitted and Interim Directions  
issued.

Allowed.

*Copies to Report*

Disposed of with directions.

Dismissed.

Dismissed as withdrawn.

Dismissed for Default.

Rejected/Ordered.

No order as to costs.

*DPD*  
*24/2/94*

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