

47

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH  
AT HYDERABAD

-----  
ORIGINAL APPLICATION NO.:1256/93

DATE OF JUDGEMENT :: 7.2 1995

Between

Sri M.Ratnagiri Rao .. Applicant  
and

1. Director General  
Council of Scientific and Industrial  
Research  
Rafi Marg, New Delhi-1.

2. Dr.A.V.Rama Rao  
Director, Indian Institute of  
Chemical Technology,  
Uppal Road, Hyderabad-7.

3. Director  
National Geophysical Research  
Institute, Uppal Road,  
Hyderabad-7. .. Respondents

Counsel for the Applicant :: Sri P.B.Vijayakumar

Counsel for the Respondent :: Sri C.B.Desai, SC for CSIR

CORAM:

HON'BLE SHRI A.V. HARIDASAN, MEMBER(JUDL.)

HON'BLE SHRI A.B. GORTHI, MEMBER(ADMN)

...2

118

O.A.No.1256/93

Dt.of Judgement: 7.2.1995

JUDGEMENT

[As per Hon'ble Shri A.V.Haridasan, Member(J)]

This application under Section 19 of the Administrative Tribunals Act is directed against the order of the second respondent in his proceedings No.IICT/MAR/ADA/VIG/91 dated 1/8-6-1992, as confirmed by the order of the first respondent in his proceedings dated 22.2.1993, imposing on the applicant the penalty of reduction by two stages from Rs.3500 to Rs.3300/- in the time scale of pay of Rs.3000/4500 for a period of two years with cumulative effect and the order of the first respondent dismissing the appeal of the applicant.

2. Facts in brief, are as follows:

The applicant is working as a Scientist in the National Geophysical Research Institute, Hyderabad, which is one of the institutes under the Council of Scientific & Industrial Research. The 2nd respondent is the Director of Indian Institute of Chemical Technology which is also one of the institute under the Council of Scientific & Industrial Research, and adhoc disciplinary authority in this case. The third respondent, i.e. Director, National Geophysical Research Institute, issued a memorandum dated 28.5.90 to the applicant directing the applicant to explain whey disciplinary action should not be taken against him in connection with an allegation that the applicant entered the residence of the third respondent at about 7.00 p.m. on 26.5.90 in a drunken condition and caused nuisance by shouting, calling bad names and treating the third respondent dis-respectfully. Thereafter, the third respondent got a preliminary enquiry held by a Committee before which, the

applicant admitted that on 26.5.90, he, after taking drinks, went to the house of the third respondent as he was summoned there thinking that there was some electrical/air-conditioner break-down requiring his attention. However, after the preliminary enquiry, the second respondent was appointed as an adhoc disciplinary authority and he issued to the applicant the charge sheet dated 21.1.1991 under Rule 14 of CCS(CCA)Rules,1965. It was alleged in the articles of charge and imputations of mis-conduct that the applicant while functioning as Scientist 'C' in National Geophysical Research Institute, Hyderabad during the period from 1.5.90 till date, committed misconduct in as much as, he on the evening of 26th May, 1990 went to the residence of Prof.Gupta Sarma, Director of National Geophysical Research Institute, Hyderabad in an intoxicated condition and shouted and used vulgar and impolite languages against the third respondent and thereby acted in a manner unbecoming of a society employee and thus contravened the provisions of Rule 3(i)(iii) of CCS(Conduct)Rules,1964 as made applicable to employees of Council of Scientific & Industrial Research. Though the applicant in the preliminary defence statement dated 14.3.1991, requested the second respondent to drop the proceedings explaining at length the ~~sick~~ situation existing in National Geophysical Research Institute, the second respondent asked the applicant to specifically accept or deny the charge. As the applicant denied the charge, an enquiry was held. 11 witnesses were examined in support of the charge and enquiry authority submitted a report that the applicant was guilty of the misconduct, though in his report, he did not specifically hold that the applicant was in a drunken and intoxicated stage. Accepting the report of the enquiry

66

..4..

authority, the adhoc disciplinary authority issued the impugned order of penalty. The appeal filed by the applicant was rejected by the appellate authority. It is under these circumstances, that the applicant has filed this application praying that the impugned orders of the second respondent and the first respondent rejecting his appeal may be quashed, and the respondents may be directed to restore his pay.

It is alleged in the application, that the inquiry was held in violation of principles of natural justice, in as much as, the applicant was not allowed to engage a defence counsel of his choice, that the applicant was not furnished with the documents which he asked for to enable him to put forth a proper defence, that he was not allowed to <sup>4</sup>cross-examine the witnesses cited by him in defence. It has also been contended that the finding is not supported by the evidence and that, even if it is held that the applicant was intoxicated, the same would not amount to misconduct as ~~much~~ anything done by him outside the office hours can <sup>not</sup> be said to be a misconduct unbecoming of a government employee. Therefore, the applicant prays that the impugned proceedings may be quashed.

4. The respondents, in their reply affidavit have contend that the applicant was given a fair and reasonable opportunity to defend himself, that in accordance with the extant instructions, the applicant was entitled to make use of any serving or retired employee under the CSIR as defence counsel, that this facility was not availed of by the applicant, and that, there is no basis for the contention that the applicant was not given the assistance of a defence counsel, that the applicant

...5

✓

(31)

being a senior official under the CSIR was obliged to maintain a decent behaviour and <sup>good</sup> standard of morality and that, ~~as~~ his conduct <sup>being</sup> ~~repugnant~~ thereto is definitely a misconduct though committed out of office hours and that the finding that the applicant is guilty is based on cogent and convincing evidence. They have further contended that the disciplinary authority as well as, the appellate authority have in detail analysed the evidence gathered at the enquiry and therefore, the finding that the applicant was guilty cannot be considered as perverse. The respondents have further contended that as the second respondent has taken a very lenient view in the matter of penalty ~~and hence~~ the applicant can have no legitimate grievance to be redressed.

5. We have gone through the pleadings and documents and have heard at length counsel for both the parties. The argument on behalf of the applicant that reasonable opportunity was denied to him in as much as, a defence counsel of his choice was not made available to him and that certain documents which the applicant wanted to peruse ~~were~~ was not given to him and that, he was not allowed to examine some of the witness in defence, after a careful perusal of the proceedings of the inquiry, is found to be without ~~merit~~ suffice. The misconduct alleged to have been committed by the applicant was being present in the residence of the third respondent in drunken stage and shouting and using vulgar and impolite language <sup>to</sup> ~~on~~ the third respondent. The documents which the applicant wanted to peruse had in fact, no relevance to the occurrence and has been rightly rejected by the enquiry authority. The applicant sought permission

M

*Some witnesses*  
to examine what was considered to be irrelevant and the applicant did not state how the testimony of those witnesses would be relevant. Therefore, the refusal to allow the applicant to call those witnesses also cannot be considered to be bad in law. We find that the applicant had participated in the disciplinary proceedings and cross-examined the witnesses examined in support of the charge. Therefore, we find that the applicant has been given fair and reasonable opportunity to defend himself and that the inquiry has been held ~~inconformity~~ with the rules. The complaint of the applicant that he was not allowed to engage a defence counsel of his choice ~~was~~ also does not appear to be of any force because, he was allowed to utilise the service of any serving or retired employee of the CSIR in accordance with the rules, which ~~the~~ <sup>he</sup> applicant did not want to avail of. The applicant thus, cannot have any legitimate grievance on that score.

6. Having gone through the proceedings of the enquiry, we find that as many as 11 witnesses were examined and there is cogent and convincing evidence to show that the applicant at the time in question went to the residence of the ~~xxxx~~ third respondent and behaved in an undecent manner shouting and using impolite language <sup>to</sup> ~~on~~ the third respondent. There is also evidence to show that the applicant had consumed alcohol <sup>thus</sup> at that time. Further, in ~~his~~ application itself, the applicant himself, has admitted at the relevant time when he went to the house of the third respondent, he had consumed liquor. Some of the witnesses have deposed that he ~~had~~ took out <sup>a</sup> some plastic packet and drank <sup>out</sup> ~~some~~ part of it, at the residence of the third respondent. SW8, the Doctor of NGRI

53

has also stated that the applicant was ~~seen~~ smelling ~~of~~ liquor and his speech was incoherent and this was the result of consumption of liquor. Almost, all the <sup>testified</sup> witnesses have ~~certified~~ that the applicant was in <sup>an</sup> agitated mood, and that he was taken from the house of the third respondent to his house in a Jeep. There is also evidence to show that the third respondent had summoned the officials who were examined as witnesses because, the applicant entered the house and started abusing him. <sup>A</sup> ~~writing~~ <sup>Very</sup> ~~had~~ <sup>arrived</sup> ~~he~~ <sup>had</sup> ~~heard~~ <sup>in</sup> ~~in~~ favour of the applicant. <sup>had this</sup> Despite the fact ~~in~~ <sup>that</sup> ~~with~~ <sup>unimpeachable</sup> evidence that the applicant ~~smelt~~ of alcohol, the enquiry authority in his report stated that the applicant may or may not have consumed liquor. However, the enquiry authority has found that the charges against the applicant was established. The Disciplinary authority has rightly accepted the findings <sup>the penalty of</sup> has imposed only/reduction of pay for a period of two years ~~with~~ <sup>with</sup> cumulative effect. The appellate authority has in his appellate order considered whether the inquiry has been properly and validly held and whether the finding was supported by the evidence, as also, whether the penalty imposed was adequate or dis-proportionate. On a proper analysis of the evidence and ~~xxxxx~~ circumstances of the case, the appellate authority has rightly decided to reject the appeal of the applicant.

7. On a careful scrutiny of the entire evidence brought on record as also the file relating to the inquiry, we are convinced that there is absolutely no reason why we should interfere with the impugned orders. A very

*GR*

lignant view has been taken in the matter of penalty, probably, considering the fact that the applicant is a senior officer, who had clean record of service. Anyhow, the inquiry has been held properly and validly and the punishment awarded to the applicant was on proof of misconduct. The applicant's contention that ~~that~~ consuming liquor outside office hours, cannot be treated as misconduct and therefore, there is no misconduct actually committed by him also, is baseless, because, he has committed a misconduct of entering into the residence of the third respondent, a superior officer in an drunken stage and shouted vulgar and impolite language which is a conduct unbecoming of an employee of the ~~unstidi~~ society under CSIR.

8. In the light of what is stated in the fore-going paragraphs, we find little merit in this application. Therefore, we dismiss the same and leave the parties to bear their own costs.

*thar sign*

(A.B.GORTHI)  
Member(Admn)

*AMH*

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

Dated: 7. 2 1995

*Amulya* Amulya  
DEPUTY REGISTRAR(J)

To

mvl

1. The Director General, Council of Scientific and Industrial Research, Rafi Marg, New Delhi-1.

2. Director, National Geophysical Research Institute, Uppal Road, Hyderabad - 7.  
3. One copy to Mr.P.B.Vijaya Kumar, Advocate, CAT, Hyderabad.  
4. One copy to Mr.C.B.Desai, SC for CSIR, CAT, Hyderabad.  
5. One copy to Library, CAT, Hyderabad.  
6. Copy to Spore.

YLKR

~~SECRET~~

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH

THE HON'BLE MR.A.V.HARIDASAN : MEMBER(J)

AND

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

DATED : 7-2-95

ORDER/JUDGEMENT.

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

in  
O.A.NO. 1256/93

Admitted and Interim directions  
issued

Allowed

Disposed of with Directions

Dismissed

Dismissed as withdrawn

Dismissed for Default.

Rejected/Ordered

No order as to costs.

YLKR

Master Copy

