

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH : AT HYDERABAD

DA 1562/93.

Dt. of Order: 21-12-94.

Dr.S.R.Gurumukhi

.. Applicant
Vs.

1. The Secretary, Ministry of Labour,
Shram Shakti Bhavan, 2 & 4 Rafi
Marg, New Delhi.
2. Director General of Employment & Training,
New Delhi.
3. Shri R.M.Sinha
(Respondent No.3 deleted as per
directions of Hon'ble Bench
dt.22-12-93)

.. Respondents

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Counsel for the Applicant : Shri S.Ramakrishna Rao

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

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CORAM:

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

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

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....2.

OA 1562/93.

Dt. of Order: 21-12-94.

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(Order passed by Hon'ble Shri A.V.Haridasan,
Member (J)).

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The applicant, Dy.Director, Advance Training Institute, Vijayawada, has in this application filed under section 19 of the A.T.Act, 1985, prayed that the charge sheet dt.16-6-92 may be quashed. The facts in a narrow compass can be stated as follows :-

2. While the applicant was working as Dy.Director of Training in Advance Training Institute, Bombay, he was transferred to Howrah. After carrying out the transfer, the applicant while claiming transfer T.A. produced a voucher for the amount of Rs.4,005/- for transport of his personal effects from M/s Janatha Quick Transport Service. This T.A. claim was not settled. While so the applicant was served with a memorandum of charges for a minor penalty on 19-2-90 alleging that he produced a fake receipt for Rs.4,005/- along with his T.A. bill and that his above action amounted to lack of integrity. The applicant submitted his explanation on 19-2-90, in which he had stated that the receipt was a genuine one and that he was not guilty. After about one year and 10 months, the 2nd Respondent issued an order on 5-6-92 cancelling the memorandum of charges issued on 19-2-90, wherein it was specifically stated that on the very same charges a fresh charge sheet would be issued. Thereafter a charge sheet dt.16-6-92 was

issued to the applicant and an Enquiry Officer has also been appointed. Challenging the validity of impugned memorandum of charge, the applicant has filed this application. His case is that once the explanation to the memorandum of charge under Rule-16 was submitted by him, after a long lapse, it is not open to the Disciplinary Authority to issue a fresh charge sheet under Rule-14 cancelling the earlier charge sheet. It is further contended that initiation of Disciplinary Proceedings on the basis of something which transpired more than 4 years ago cannot be sustained since it would be obvious that such a step has been taken only for the purpose of harrassing the applicant. The applicant has also averred that the Respondents are bent upon obstructing the advancement in his career because the major penalty charge sheet was issued at a time when the applicant was selected by U.P.S.C. for a higher post. Under these circumstances, the applicant contends that the impugned memorandum of charges is liable to be quashed.

3. The respondents in their reply have contended that the minor penalty proceedings were dropped and the charge sheet under Rule-14 of the CCS(CCA) Rules was issued because the Union Public Service Commission opined that, the mis conduct is such that it deserves a major penalty. The respondents contend that, the action taken only in public interest and ^{being} not with any oblique motive, does not call for judicial intervention at this stage.

4. We have perused the material on record and heard Sri S.Ramakrishna Rao, learned counsel for the applicant and Shri N.R.Devraj, learned senior standing counsel for the Respondents in detail. The important points that were argued by the counsel for the applicant are :-

- (a) the initiation of Disciplinary Proceedings for the first time in February, 1990, concerning a transaction which took place on 10-10-85 and issuing a fresh charge sheet on the basis of the same allegations is unsustainable on the mere ground of delay;
- (b) once a minor penalty charge sheet has been issued and the delinquent has submitted his representation, it is not open for the Disciplinary Authority to issue a major penalty charge sheet on the same set of allegations dropping the earlier charge sheet; therefore the disciplinary proceedings isvitiated and is liable to be quashed.

We shall deal with these arguments in detail. Shri Ramakrishna Rao, learned counsel for the applicant argued that initiation of Disciplinary Proceedings after inordinate delay has been deprecated by the various Benches of this Tribunals. In support of this contention, he has invited our attention to the ruling of Madras Bench, reported in 1989 (11) ATC 678 and that of the Calcutta Bench, reported in 1989 (10) ATC 209 and also to the ruling of Jabalpur Bench reported in 1990 (12) ATC 868. In all the decisions cited above, it has been held that long delay in initiation of disciplinary proceedings, if not properly explained may vitiate the proceedings. But in

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this case on an examination of the relevant files made available for our perusal by the learned standing counsel for the respondents, we are satisfied that the delay in initiating proceedings against the applicant is justified and explained. On receipt of the T.A. claim, being suspicious of this voucher for transport of personal effects, the same was sent for verification. Coming to know that the genuineness of the voucher was not free from doubt a proceeding for imposition of minor penalty was imposed on the applicant. After getting the explanation, when the U.P.S.C. was consulted, the U.P.S.C. advised that the situation warranted initiation of disciplinary proceedings under Rule-14 of the CCS(CCA) Rules. It was under these circumstances that the impugned memorandum of charge was issued to the applicant. Under these circumstances, the delay being unavoidable, we are of the view that the memorandum of charge cannot be quashed on the ground of delay.

5. Sri Ramakrishna Rao, learned counsel for the applicant further argued that once the Disciplinary Authority had received the explanation to the memorandum of charges under Rule-16, it is not open for the Disciplinary Authority to issue a fresh charge sheet under Rule 14, canceling the earlier one. We are not able to agree with this argument. The disciplinary authority is at liberty to drop the first charge and issue a fresh memorandum of charge, if in the order cancelling the earlier charge the intention to issue a fresh charge is stated.

6. The next argument of the learned counsel for the applicant is that the respondents have chosen to issue a charge sheet to the applicant for imposition of a major penalty at this distance of time with the malafide intention of blocking the advancement in his career because the charge sheet was issued when the applicant was selected by the U.P.S.C. for a higher post scanning through the application. We do not find any specific allegation that any one of the respondents had any special reason for being enemical towards applicant. However, on a consideration of the facts and surrounding circumstances brought out in the pleadings and other material made available for our perusal. We are satisfied that the delay in initiation of the disciplinary proceedings is on account of the circumstances of the case and that the respondents were not motivated by any reason other than the interest of service. Therefore, the argument that impugned charge sheet has been vitiated by malafidies cannot stand.

7. However, since the charge sheet was issued in the year 1992 and it relates to something which happened in the year 1985 and since the applicant has now been selected for a higher post by the Union Public Service Commission, it is necessary that the enquiry is proceeded expeditiously and a final decision taken without further delay. Therefore, while declining to grant the prayer of the applicant for quashing

the impugned charge sheet, we direct the respondents to have the enquiry completed and to pass final order in regard to the impugned memorandum of charges within a period of three months from the date of communication of a copy of this order. No order as to costs.

Handwritten signature
(A.B.GORTNI)
Member (A)

Handwritten signature
(A.V.HARIDASAN)
Member (J)

Dt. 21st December, 1994.
Dictated in Open Court.

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Handwritten signature
13-12-94
DEPUTY REGISTRAR(J)

To

1. The Secretary, Ministry of Labour, Shrama Shakti Bhavan, 2 & 4 Rafi Marg, New Delhi..
2. The Director, General of Employment & Training, New Delhi.
3. One copy to Mr.S.Ramakrishna Rao,Advocate,CAT,Hyderabad.
4. One copy to Mr.N.R.Devraj, Sr.CGSC,CAT,Hyderabad.
5. One copy to Library,CAT,Hyderabad.
6. One spare copy.

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COMPARED BY

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

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

AND

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

DATED : 21/12/94

ORDER/JUDGEMENT.

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

in

O.A.No. 1562/93

Admitted and Interim directions
issued

Allowed

Disposed of with Directions

Dismissed

Dismissed as withdrawn

Dismissed for Default.

Rejected/Ordered

No order as to costs.

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