

should put in writing and obtain his signature of the incharge for the actual items noticed and if there is any shortage, it should be recorded and the signature of the stores incharge has to be obtained with such shortage could not be reconcialed. This was not done by the DEE and even when there is alleged shortage he did not summon for the incharge i.e. myself to satisfactorily explain the alleged shortage. The very fact that the concerned has not called me while checking the stock or afterwards clearly shows that the shortage was reported with a malafide intention. Sri Ch. Subba Rao who counted the insulators and reported to the DEE was not aware of the insulators lying in the premises. The DEE also did not record the statement of Sri Ch. Subba Rao. The statement of Sri Ch. Subba Rao at the enquiry clearly establishes that the stock verification was not done personally by the DEE and the reported shortage is malafide.

4. It was brought out in the enquiry that the charge is not specific and the person who conducted the ~~enquiry~~ inspection and made the report of shortage was not examined at the enquiry. The copy of the report was also not supplied to me along with the charge sheet. The mere production of the document at the enquiry without examining the author of the document regarding the alleged shortage does not amount to giving opportunity to the applicant to defend his case. The non-examination of the DEE has resulted in the denial of reasonable opportunity to me to effectively defend my case.

5. The enquiry officer commenced the enquiry by examining me in the first instant which is contrary to the disciplinary and appeal rules. It is only after recording the evidence of the witnesses , the Enquiry Officer has to ask the charged employee if he is willing to be examined at the enquiry. It is only after the charged employee declines to be examined as a witness he can ask some questions connected with the proceedings of the enquiry but not start cross examine the charged employee as if he is conducting a prosecution. This deviation from the procedure is contrary to rules and the entire proceedings are vitiated in law. The Enquiry Officer failed to discharge the quasi judicial functions but question and thereby trying to hold me responsible for the charge. The main charge is that as per the ledger 8992 is the last posting and balance is 142 number but physical balance is 132. The imputations by which the charge is to be sustained have not been furnished except the Inspection notes dated 9-9-92 of the DEE. The Enquiry Officer in his report split up the charge and his findings are that I am the guilty of the charge levelled against me. The shortage has not been established at the enquiry and the disciplinary authority in his penalty advice listed three items which are not the subject matter of the charge . The appellate authority without applying his mind to the various grounds ~~in~~ raised therein simply confirmed the orders of the disciplinary authority. The Reviewing authority who disposed of the review petition has observed that " however in actual practice such issues are not uncommon and I am prepared to give the charged official the benefit of doubt.". He also observed that " the charged official

DLO
Date 3/9/97
2nd cover

IN THE CENTRAL ADMINISTRATIVE
TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

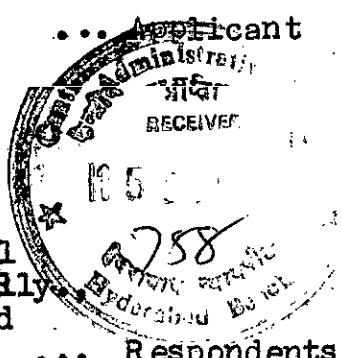
O.A.No. 1561 of 1994

Between

Y. Abraham John ... Applicant

and

Chief Electrical
Engineer, S.C.E.H.Y.
Secunderabad and
two others ... Respondents



R E J O I N D E R

Rej
B/9/97
R.L.H. Derry

Filed by:

Sri G.V. Subba Rao,
Advocates,
Plot.No. 96,
Jawahar Rail Colony,
Sikh Road,
SECUNDERABAD
Counsel for Applicant.

May be sent
16/9/97

would have had an opportunity to explain his point then and there especially as the inspecting official has made an entry in the DMPR indicating the ground balance. The ~~appellate~~ Review authority failed to take notice of the crucial point that I was not asked to personally explain the shortage. The entire inspection by the DEE was conducted at my back without associating me with the physical verification of the stock. He was guided by the oral information furnished by Sri Ch. Subba Rao. The inspection report cannot be taken as a correct picture of the stock in the absence of my being confronted to explain for the alleged shortage on the spot. This was done with malice to harm my career. The DEE who is the reporting official has not been examined at the enquiry and the mere report cannot be treated as the charge is proved.

I have brought out all the ~~above~~ issues in the defence statement after conclusion of the enquiry and also in my review petition. The various grounds raised by me have not been contradicted which amounts to the fact that the enquiry was conducted with bias and the proceedings are to quashed.

Solemnly affirmed and signed before me on this the 13th day of Sept. 1997.


C. V. Abraham John
Before me,
Advocate, Hyd.

DEPONENT.