

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

..
O.A.No. 626/1995.

Date of decision: November 6, 1997.

Between:

A.C.Trivedi.

.. Applicant.

And

1. The Chief Soil Survey Officer,
All India Soil and Land Use Survey,
IARI Buildings, New Delhi 12.

2. The Soil Survey Officer, All India
Soil and Land Use Survey, 12-5-27/2,
Vijaipuri, Tarnaka, Secunderabad-17.

3. The Asst. Soil Survey Officer,
All India Soil and Land Use Survey,
No.1 Daji Colony (1st Floor),
Vijainagar Road, Naranpura,
Ahmedabad - 390013.

Respondents.

Counsel for the applicant: Sri G.V R,S,Vara Prasad.

Counsel for the respondents: Sri V.Rajeswara Rao.

CORAM:

Hon'ble Sri R. Rangarajan, Member (A)

Hon'ble Sri B.S. Jai Parameshwar, Member (J)

JUDGMENT.

(per Hon'ble Sri B.S. Jai Parameshwar, Member (J)

Heard Sri G.V.R.S.Vara Prasad, the learned counsel
for the applicant and Sri V.Rajeswara Rao, the learned
counsel for the respondents.

: 2 :

While the applicant was working as U.D.C., he was entrusted with a sum of Rs.15203/- for the purpose of purchasing three drafts from the Bank. The applicant went to the Bank and he lost a sum of Rs.13,801/- while he was standing at the counter. The said loss of Government - applicant had lodged a police complaint which was registered as F.I.R.No.1/90. The Police Authorities submitted a final report stating that the case was true but the could not be traced. Therefore, The Disciplinary Authority issued a Charge Memo bearing no. dated 3-4-1990 (Annexure 29 to the O.A.) An enquiry was conducted. It is stated that the said enquiry was a preliminary enquiry. Thereafter another Charge Memo dated 2-7-1993 was issued by the Disciplinary Authority. Then the applicant challenged the Charge Memo dated 2-7-1993 in O.A.No. 1114/93. This Tribunal set aside the Charge Memo dated 2-7-1993 by its order dated 1-8-1994 and directed the Respondent No.2 to proceed with the enquiry as per the Charge Memo dated 3-4-1990.

Sri S.N.Das, Senior Soil Survey Officer conducted the enquiry and submitted his report on 26.12.1990. The Disciplinary Authority, viz., the Soil Survey Officer

considering the report of the Enquiry Officer and also the explanation of the applicant, by its Pros. No.2271/2 dated 23-11-1994 agreed with the findings of the Enquiry Officer and imposed a penalty of reduction of pay of the applicant by four stages i.e., from Rs.1410/- to Rs.1290/- in the time scale of pay of Rs.1200-30-1560-EB-40-2040 with effect from 1-12-1994 for a period of four years.

It was further ordered that during the period of penalty the applicant ^{Would} ~~will~~ not earn ^{Would not} ~~will~~ and on the expiry of this period the reduction ~~will~~ have the effect of postponing his future increments. The Disciplinary Authority has further ordered that the loss of Rs.13,801/- sustained by the Govt. be recovered from the pay of the applicant at Rs.300/- p.m., for 46 months and the balance of Re.1/- in the 47th month starting from the salary ^{payable} ~~will~~ for the month of December, 1994.

Against the said order of punishment, the

order was referred to the Government on 4-1-1995. The

order was sent to the Soil Survey Officer, Hyderabad.

Chief Soil Survey Officer Sri S.N.Das

disposed of the appeal by the

Government on 1-2-1995 rejecting his appeal.

considering the report of the Enquiry Officer and also the explanation of the applicant, by its Pros. No.2271/2 dated 23-11-1994 agreed with the findings of the Enquiry Officer and imposed a penalty of reduction of pay of the applicant by four stages i.e., from Rs.1410/- to Rs.1290/- in the time scale of pay of Rs.1200-30-1560-EB-40-2040 with effect from 1-12-1994 for a period of four years.

It was further ordered that during the period of penalty the applicant ^{would} ~~will~~ not earn increments ^{would not} ~~and~~ of this period the reduction ~~will~~ have the effect of postponing his future increments. The Disciplinary Authority has further ordered that the loss of Rs.13,801/- sustained by the Govt. be recovered from the pay of the applicant at the rate of Rs.300/- p.m., for 46 months and the balance of Re.1/- in the 47th month starting from the salary ^{payable} ~~for~~ for the month of December, 1994.

Against the said order of punishment, the applicant preferred an appeal dated 4-1-1995. The appeal was addressed to the Soil Survey Officer, Hyderabad. On 16-2-1995 the Chief Soil Survey Officer Sri S.N.Das who did the enquiry ~~has~~ disposed of the appeal by the impugned Order dated 16-2-1995 rejecting his appeal.

From the above narration of facts, it is evident that the Enquiry Officer also acted as the Appellate Authority. Hence the principle of natural justice is violated in the instant case while disposing of the appeal of the applicant. Hence, we humbly feel that the Appellate Order has to be set aside and a direction has to be issued to the respondents to reconsider the appeal of the applicant by an Officer ^{to} equivalent or higher than that of the Chief Soil Survey Officer, that is, the previous Appellate Authority who disposed of the appeal of the applicant by the impugned Proceedings dated 16--2--1995.

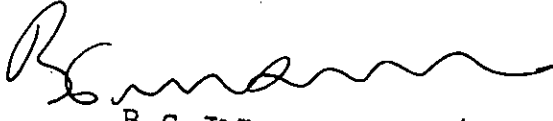
In the result, the following directions ~~is~~ ^{are} given:


The Appellate Order issued by the impugned Pros., No. C.5-5/79 AIS/1145 dated 16-2-1995 is hereby set aside. The appeal preferred by the applicant shall be reconsidered by an Officer of the Department ^{to} equivalent or higher than that of the Chief Soil Survey Officer, i.e., the previous Appellate Authority, and disposed of in accordance with law within three months from the date of receipt of a copy of this order. In case, the appellant - ~~the~~ ^{the} applicant prays for an opportunity of being heard, ~~the~~ ^{the} same shall be afforded to him.

Jas

: 5 :

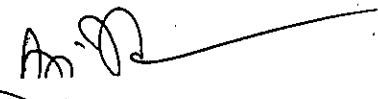
The O.A., is disposed of with the above
directions. No order as to costs.


B.S. JAI PARAMESHWAR,
Member (J)


R. Rangarajan.

Date: 6--11--1997.


Dictated in open Court.


D. R.

Note.

C.C. by tomorrow (7-11-1997)

(B.O.)



..6..

Copy to:

1. The Chief Soil Survey Officer, All India Soil and Land Use Survey, IARI Buildings, New Delhi.
2. The Soil Survey Officer, All India Soil and Land Use Survey, 12-5-27/2, Vijaipuri, Tarnaka, Secunderabad.
3. The Asst. Soil Survey Officer, All India Soil and Land Use Survey, No. 1 Daji Colony, (1st Floor), Vajainagar Road, Naranpura, Ahmedabad.
4. One copy to Mr. G. V. R. S. Nara Prasad, Advocate, CAT, Hyderabad.
5. One copy to Mr. V. Rajeswara Rao, Addl. CGSC, CAT, Hyderabad.
6. One copy to D. R. (A), CAT, Hyderabad.
7. One copy to HBSJP? M (3), CAT, Hyderabad.
8. One duplicate copy.

10/11/97

CC Today

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN : M(A)

AND

THE HON'BLE SHRI B. S. JAI PARAMESHWAR :
M (J)

Dated: 6-11-97

ORDER/JUDGMENT

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

in

O.A.NO. 626/95

~~Admitted and Interim Directions
Issued.~~

~~Allowed~~

~~Disposed of with Directions~~

~~Dismissed~~

~~Dismissed as withdrawn~~

~~Dismissed for Default~~

~~Ordered/Rejected~~

~~No order as to costs.~~

YLKR

II Court

