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CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH :
AT HYDERABAD.

O.A.NO.406 of 1995.

Date of Order :- 20th January, 1998.

BETWEEN :

P. Hanumantha Rao,
S/o Late Venkaiah, aged 47 years,
formerly working as Technical Supervisor,
Defence Metallurgical Research Laboratory,
Hyderabad.
Residing at EWS 235,
New Santosh Nagar Colony,
... APPLICANT

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1. Scientific Advisor to Raksha Mantri,
Government of India, Ministry of
Defence, Defence Research &
Development Orgn. DHQ P.O.
New Delhi - 110 001.
2. Defence Metallurgical Research Laboratory,
Government of India, Ministry of Defence,
Defence Research & Development Orgn.,
P.O. Kanchanbagh, Hyderabad-500 258,
Represented by its Director. ... RESPONDENTS

COUNSEL FOR THE APPLICANT - MR.G.RAMACHANDRA RAO

COUNSEL FOR THE RESPONDENTS - MR.K. BHASKARA RAO,CGSC.

CORAM :

HONOURABLE MR. R.RANGARAJAN, MEMBER (ADMINISTRATIVE)

HONOURABLE MR.B.S.JAI PARAMESHWAR, MEMBER (JUDICIAL)

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ORAL ORDER.

(Per Hon. Mr. B.S. Jai Parameshwar, Member (Judicial)).

Heard Mr. G. Ramachandra Rao, the learned counsel for the applicant and Mr. K. Bhaskara Rao, the Standing Counsel for the respondents.

2. The applicant while working as Supervisor, Technical Grade III, in the Defence Research and Development Organisation, ^{was served with charge-memo} Hyderabad No. CF/1/6/1(MC) dated 29.4.1977 (Annexure-I). He was charged as under:-

ARTICLE.

That the said Shri P. Hanumantha Rao, while functioning as Supervisor, Tech Grade III during the period 1972 and 1973 is charged with violation of CCS (Conduct) Rules, 1964 in that he committed an act of gross misconduct by making available Essentiality, Certificates and Cash Memos. to DMRL employees to enable them to prefer false medical claims."

3. After entering into correspondence with regard to the documents, the applicant submitted his explanation to the charges. His explanation was not accepted and an inquiry was conducted.

4. The Inquiry Officer submitted his report finding that the charge levelled against the applicant was not proved. The finding recorded by the Inquiry Officer is as under :-

The "hegoy" of the emergency has been brought in through Defence Witnesses to sustain their stand that the confessions were not voluntary as claimed. Even after the emergency was "lifted" the confessors and others had only sent an omnibus petition to the higher authorities but had not gone to the extent of challenging any of alleged erroneous recoveries of false MR claim amounts. All these lead one to the conclusion that there was a prevalent custom of making available essentiality certificates and cash memos to employees by some agents who were also employees of DMRL and it might be that the Delinquent Officer was one of them as he is stated to have been named by many confessors who had no particular animosity to him. But this is only vogue and has not been

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established by corroborative or documentary evidence before the Inquiry. Based on the theory of preponderance of probability, it can at best be concluded that Shri P. Hanumantha Rao had acted as an agent in DMRL by making available essentiality certificates and cash memos to employees of DMRL to prefer false medical claims but this has not been proved evidence to be sustained legally."

A copy of the report of the Inquiry Officer was furnished and the applicant submitted his explanation. The disciplinary authority by his proceedings of even number dated 14.7.1994 observing as under ;

" AND WHEREAS the Disciplinary Authority having carefully considered the inquiry proceedings and the inquiry report after taking into account the representation submitted by the said Shri P. Hanumantha Rao, Chargeman Gde II, agrees with the findings of the Inquiring Authority that the said Shri P. Hanumantha Rao had acted as an Agent in DMRL by making available false essentiality certificates and cash memos to employees of DMRL to prefer false medical reimbursement claims, but rejects the observations that the charge is not proved beyond doubt either oral or documentary evidence to be sustained legally as both oral and documentary evidence produced in the inquiry has clearly established that the said Shri P. Hanumantha Rao, has acted as an Agent."

imposed the penalty of removal of the applicant from service (Annexure- XX). Against the said order of punishment, the applicant submitted a Memorandum of Appeal to the Scientific Advisor to the Defence Minister. The copy of the Memorandum of Appeal is at pages 66-70 of the OA (Annexure-XXI).

5. The appellate authority considering the appeal and the records of the inquiry confirmed the punishment imposed by the disciplinary authority and dismissed the appeal. The order of the appellate authority is dated 30.1.1995 and is at Annexure-XXII).

6. The applicant has filed this OA challenging the orders dated 14.7.1994 and 30.1.1995 and praying for setting aside the same with a further direction to reinstate him into service.

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7. The respondents have filed their counter stating that the applicant was given every opportunity during the inquiry; that the disciplinary authority as well as the appellate authority have considered the material available on record and imposed the punishment of dismissal and that there are no reasons to interfere with the impugned orders.

8. The learned counsel for the applicant during course of argument, submitted that the authorities had not properly considered the findings recorded by the Inquiry Officer; that the inquiry report exonerates the applicant and that the said finding has been ignored by the appellate authority. Hence the whole case has been decided without any proper evidence on record.

9. The learned counsel for the applicant further submitted that the preayer in this OA is similar to the prayer in OA No.324/95 decided on 9.12.1997. In that OA also the charges levelled against the applicant ^{was} ~~are~~ same as the charges levelled herein. There also the inquiry report was in favour of the applicant. In spite of that, the disciplinary and appellate authorities had removed the applicant from service; but that was set aside by the judgment in that OA. As this OA is similar to the OA No.324/95, this OA has also to be allowed for the reasons stated in the judgment in OA No.324/95.

10. The learned counsel for the respondents admits that the charges in this O.A. and the contentions raised herein are similar to OA No.324/95. But in the present O.A. one of the witnesses, namely, Mr.G.Eswar Sastry had identified the applicant as the receipt of certain favours and acted as an Agent as revealed in

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the question put to him by the Inquiry Officer. But in the inquiry report, it has been clearly stated that G.Eshwara Sastry was also going in a generalised manner and did not come down to specific details of any transactions with the delinquent official with reference to specific claims. Shri EVR Rao was unable to state why he named the delinquent official as an "Agent" even allowing for his alleged succumbing to pressures to confess from representatives though he was an educated middle level employee holding a responsible position. Thus the statement of Sri G.Eshwara Sastry was ~~presented~~ ^{not accepted} by the Inquiry Officer. The disciplinary authority also recorded in his proceedings that he was rejecting the observation of the Inquiry Officer that the charge was not proved beyond doubt either by oral or documentary evidence to be sustained legally. Both oral and documentary evidence produced during course of the inquiry, has clearly established that the applicant had acted as an Agent. This is a mere assertion without any proof. Hence, if the disciplinary authority had felt that the above statement of the Inquiry Officer was ~~incorrect~~ ^{not} correct, he should have remitted the matter back to the Inquiry Officer for proper scrutiny and submitting a report subsequently with necessary evidence in this connection. But he did not do so. It appears that he acted on the basis of his own whims. The appellate authority also has not dealt with this point, as can be seen from the appellate authority's order. Hence, when the learned counsel for the applicant submits that it is a case of 'no evidence', we have to give credence to

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that statement. We are satisfied that the present OA is covered by the judgment in OA No.324/95. Hence we have no other alternative except to follow the direction given in OA No.324/95 and direct as follows :-

- (a) The impugned orders dated 14.7.1994 and 30.1.1995 passed by the disciplinary authority as well as the appellate authority are hereby set aside.
- (b) The applicant shall be reinstated into service ~~from the date of absence of the applicant from~~ the date of dismissal till the date of his reinstatement into service and the consequential benefits, if any, due to his reinstatement shall be decided by the competent authority in the respondent-organisation in accordance with rules.
- (c) Time for compliance - four months from the date of receipt of a copy of this order.

11. The O.A. is accordingly allowed; but in the circumstances, no order as to costs.


(B.S.JAI PARAMESHWAR)
MEMBER(JUDICIAL)

20.1.98


(R. RANGARAJAN)
MEMBER(ADMINISTRATIVE)

DATED THE 20TH JANUARY, 1998.
Dictated in the Open Court.

DJ/


D.R.

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TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR. B. RANGARAJAN : M(A)

AND

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

DATED: 20/1/98

ORDER/JUDGMENT

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

in

G.A. NO.

406/95

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS
DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS.

II COURT

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