

(114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

OA.1314/96

dt.13-11-96

Between

I. Ranga Rao

: Applicant

and

1. Chief Engineer(Navy)
Station Road
Visakhapatnam

2. Commander Works Engineers
MES, Station Road
Visakhapatnam

: Respondents

Counsel for the applicant

: P.B. Vijayakumar
Advocate

Counsel for the respondents

:

CORAM

HON. JUSTICE MR. M.G. CHAUDHARI, VICE CHAIRMAN

HON. MR. H. RAJENDRA PRASAD, MEMBER (ADMN.)

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Judgement

Oral order (per Hon. Mr. Justice M.G. Chaudhari, VC)

Mr. P.B. Vijaya Kumar for the applicant.

1. The applicant was working as Electrician H-II at Naval Dockyard, Visakhapatnam, under the respondents. He was chargesheeted under Rule 14 of CCS(CCA) Rules, 1965 (A-III). Articles of charges framed against the applicant were for violation of Rules 3(1) (1)(ii) of CCS (conduct) Rules, 1964.
 - (a) violation of Rule 7(1) CCS (Conduct) Rules, 1964
 - (b) violation of Rule 3(1)(iii) and Rule 7(ii) of CCS (Conduct) Rules relating to his conduct exhibited between 3-8-1993 and 6-8-1993.
2. Briefly stated the case of the prosecution was that during the above mentioned period the applicant absented himself from duty and misbehaved with AGE abusing him and trying to manhandle him on 3-8-1993 and with GE by threatening him. He also organised and participated during that time in illegal demonstration/strikes of work and instigated workers to gherao GE and AGE Naval Base, Visakhapatnam and that apart from ~~xxxxxx~~ himself from duty indulged in indiscriminate activities to organise and participate in illegal demonstration/strikes and attempted to make false allegation against AGE, GE (Naval Base), and GE (Naval base) Visakhapatnam. By these acts it was alleged that he had failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Government servant, thus violating the Conduct Rules.

3. Mr. M.N. Sardana, SBSO, was appointed as Inquiry Officer, Mr. K.T. Vasanthan, was appointed as Presenting



Officer. Prior to issuance of the chargesheet, a preliminary inquiry had been conducted by an officer appointed by CWS for investigating into the circumstances in which the incident had occurred. The applicant participated in the inquiry from the beginning to the end. He was assisted by Mr. V. Brahmananda Rao as Defence Assistant. On behalf of the prosecution as many as nine witnesses ^{were examined and the} applicant on his part examined four ^{were examined and the} witnesses. Documentary evidence was also adduced and as many as 44 documents were exhibited, On behalf of the applicant defence brief containing 43 pages was submitted. After analysing the evidence in great detail and discussing the various arguments raised in the defence briefing the inquiry officer held that all the articles of charge were proved against the applicant ^{namely:} (except allegation of abusing R.L. Misra) instigating workers to gherao the GE, attempting to make false allegations against AGE and GE, abusing both the officers and part of article 2 of Annexure-II relating to pay slips.

4. The Disciplinary authority viz. SE, Commander Works Engineer, accepted the findings of the Inquiry Officer, ^{and} imposed the penalty ^{Vide} order dated 15-5-1995 as follows :

"the applicant is reduced to the lower post of Electrician(SK) to the stage of Rs.1325/- in the scale of Rs.950-20-1150-EB-25-1500 until he is found fit after a period of 5 years from the date of the order to be restored to the higher post of Electrician HS-II. In case of repromotion he will not regain his original seniority in the higher post which has been assigned to him ^{prior to the} imposition of penalty." (not quoted verbatim),

5. Against the aforesaid order the applicant preferred an appeal to the Appellate authority viz. Chief Engineer, Navy, Visakhapatnam. In the memorandum of appeal, he raised



several contentions to point out that the inquiry proceedings were vitiated. The appellate authority has in his order dated 25-11-1995 summarised the points raised by him in his appeal. These interalia are that the DA was misguided by the report of Inquiry Officer who had erred in evaluating the evidence and his conclusions were not supported by reasoning at several places, that the DA had imparted his personal knowledge in the inquiry, that the inquiry officer had travelled at certain places beyond the scope of findings and depended on his own assumption while following evidence, that justice had been miscarried, that ~~the~~ inquiry officer had depended on unreliable evidence and that the inquiry officer had falsely implicated him in the case of manhandling AGE based on ~~unreliable~~ evidence. The appellate order recites that the authority had considered the appeal as also the connected documents and after giving personal interview to the applicant had reviewed the entire case and thereafter came to the conclusion that the charges ~~found proved~~ against the applicant(at the inquiry) have been proved beyond doubt. He also recorded that the inquiry was conducted as per procedure, rules and was in order. The appellate authority, however, was inclined to take a lenient view on the quantum of punishment. Hence, even after observing that the award of major penalty was justified, he reduced the period of penalty to three years in lieu of five years, keeping in view the 27 years of service of the applicant in the Department and as he was approaching the date of superannuation on 30-6-2000.

6. The applicant challenges the legality and correctness of both these orders in this OA. He prays that these orders

will

and
~~may be quashed~~ he be restored to his original position
 with all consequential and attendant benefits.

7. Ordinarily in a matter of punishment after a disciplinary inquiry, an application made to this Tribunal would not be summarily rejected, the necessity being to go through the records of inquiry and give opportunity to the respondents to explain on the points raised by the applicant to challenge the punishment. This, however, is a case where we ~~do~~ not consider it necessary to adopt that procedure because of the relevant material is available for reconsideration through the documents produced by the applicant himself. We have, therefore, carefully gone ~~through~~ the entire record produced with the OA and heard ~~carefully~~ Mr. P.B. Vijaya Kumar at some length. We would like to record here that the Inquiry Report as well as ~~effected~~ order in the instant case are specimen of an excellent exercise as required by the law and we have no hesitation in complementing the Inquiry Officer, ~~Mrs. M.N.~~ Sardana, SBSO, MES/431794, for the thorough job he has done. We ~~have~~ however, hasten to add that - that consideration has not in the least ~~has~~ affected reconsideration of the merits of the case in the light of submissions made by the learned counsel for the applicant. We only wish to record our appreciation, because it is not usual to find such careful inquiry ~~is~~ being conducted.

8. The first point urged by Mr. Vijayakumar for the applicant is that principles of natural Justice have been violated in as much as the impact of the answers elicited during the cross-examination of the prosecution witnesses had not been taken into account by the Inquiry Officer for the purpose of ~~weighing~~ the efficacy of the evidence given

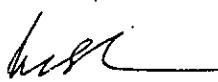
[Signature]

by the witnesses in their examination in chief. It is pertinent to mention in this connection that this point was not raised specifically before the Appellate authority in this form. However, in the Defence brief submitted on behalf of the applicant at the conclusion of the trial this was one amongst the various points raised by the applicant. The inquiry officer has dealt with each of these points elaborately at paragraph-61 onwards of the report. In paragraph-18 he has recorded that the applicant ^{through} his DA was given full opportunity to examine, cross-examine and re-examine, the witnesses in the manner they feel appropriate. He was also given full liberty to call witnesses in his defence. No grievance that opportunity to cross examine the witnesses not being afforded can therefore be heard to be made. It would not be sufficient for the applicant merely to say that the impact of the cross examination had not been taken into account while evaluating evidence of the witnesses ^{by} of the Inquiry Officer. When we requested Mr. P.B. Vijaya Kumar to demonstrate as to which part of the cross-examination of the witnesses would have had direct impact on the reasoning adopted by the Inquiry Officer in regard to the evidence of each of the witness, the learned counsel drew our attention to paragraph-13 of the appeal memo in order to illustrate his point. In that paragraph, the applicant had quoted answer 16 of SW-1 B. Gangadhara Rao, who stated in the cross-examination : "thus they would have beaten AGE. It is my presumption." When we compared that answer with the discussion of the evidence of Gangadhara Rao made by the Inquiry Officer, we find that in paragraph 39 of the Report the Inquiry Officer has taken note of his narration that the



applicant alongwith other workers had demonstrated against Sri R.L. Mishra and found that the same was supported by Exhibit S.No.2 on the point of abuses hurled by the applicant and threats of physical harm given by him. Even so the Inquiry Officer has held that the allegation that applicant had abused both the officers had not been proved. That goes to show that the Inquiry Officer has acted fairly in assessing the evidences. He seems to have adopted perfectly a judicial approach. Apart from this one instance nothing more is shown to demonstrate as to how the assessment of the evidence made by the Inquiry Officer is vitiated by reason of not taking the impact of the cross-examination of the witnesses into account.

9. There is no other circumstance from which violation of principles of natural justice can be inferred. In the legal pleas raised in paragraph-5 of the OA, it is averred that the Inquiry Officer has conducted the inquiry in violation of principles of natural Justice. While elaborating this point in paragraph-4(e) and (ii) it is interalia alleged that the Preliminary Inquiry Report was not supplied and the Department deliberately avoided introduction of cited witnesses. Summons were refused to be issued to cited witnesses which was necessary in order to ^{truth} elicit truth and the Inquiry Officer remained silent spectator to the suppression of truth deliberately by the interested parties and witnesses and thus there was no compliance with the principles of natural Justice. The applicant clearly is confusing between observance of principles of natural Justice in conducting proceedings and between other infirmities which according to him may



vitiating the proceedings. We thus find no substance in the grievance that the principles of Natural Justice have been violated. The Inquiry Officer has dealt with each one of the above allegations in his Report and we are fully satisfied with the discussion on the point. The inquiry was conducted in accordance with the prescribed procedure. The applicant was made available the services of the Defence Assistant. He participated in the inquiry, cross-examined ~~the~~ witnesses and also adduced ~~the~~ defence evidence. He was also personally heard by the Appellate authority. By no stretch of imagination it can be held ^{that} there has been violation of principle of Natural Justice.

10. Another plea raised in the application is that the Report of the Inquiry Officer is not based on the legally accepted evidence and the cross-examination part has been totally ignored and the findings are based on assumptions and presumptions. We ^{have} already considered the question of cross-examination. The evidence adduced cannot be described as legally unacceptable. The grievance of the applicant only means that the ^{warrant} evidence was not sufficient to ~~make~~ the findings. ~~That~~ ^{however} is a question relating to assessment of evidence and it is not open to us to enter into that field. Suffice it to say that we find that the Inquiry Officer has assessed the evidence reasonably and it was open to him to take the view of the evidence which he had taken. We notice no perversity therein.

11. The next plea urged is that there are deficiencies in the inquiry and they have not been noted by the authorities below who decided the issue superficially

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without application of mind. This ground has no substance as there is indepth analysis of the evidence made by the Inquiry Officer. In so far as Appellate authority is concerned, he is not required in law to give an elaborate judgement where he is inclined to agree with the findings arrived at by the Inquiry Officer and concurred in by the Disciplinary authority. That apart summarisation of the points raised in the appeal made in the order and the circumstances that he had given personal hearing to the applicant is sufficient assurance that he had considered the appeal and the records and had reviewed the entire case as stated by him. We therefore do not find any error or illegality vitiating the appellate order.

12. The learned counsel for the applicant submitted that the condition imposed ~~in the impugned order viz~~ that the reduction to the lower post will operate until the applicant is found fit after a period of three years, is illegal. According to the learned counsel for the applicant since the period of punishment was over, the applicant is entitled to be restored to his original post from which he has been reduced to lower post without being required to be found fit once again. In our opinion it was within the competence of the authorities to impose the condition. It has been imposed consistently with G.I. MHA. OM No.9/13/62-Estt.(D), dated 10-10-1963 and No.30/63-Estt.(D), dated 7-2-1964 issued under Rule 11 of CCS(CCA)Rules. The submission, therefore, is not possible to be accepted.

13. For the aforesaid reasons we are of the view that no case has been disclosed for admitting the OA. The OA is accordingly rejected.


(H. Rajendra Prasad)
Member (Admn.)


(M.G. Chaudhari)
Vice Chairman

Dated : November 13, 96
Dictated in Open Court

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Deputy Registrar (G)

O.A.1314/96.

To

1. The Chief Engineer (Navy)
Station Road, Visakhapatnam.
2. The Commander Works Engineers,
MES, Station Road, Visakhapatnam.
3. One copy to Mr. P. B. Vijayakumar, Advocate, CAT.Hyd.
4. One copy to Mr.
5. One copy to Library, CAT.Hyd.
6. One spare copy.

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31/12/96

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE M.G.CHAUDHARI
VICE-CHAIRMAN

AND

THE HON'BLE MR.H.RAJENDRA PRASAD
MEMBER(ADMN)

Dated: 13 - 11 -1996

~~ORDER~~ JUDGMENT

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

in
C.A.No. 1314/96

T.A.No. (W.P.)

Admitted and Interim Directions
Issued.

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Ordered/Rejected.

No order as to costs.

p.v.m.

