

Annexure- IV

:: 15 ::

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH
HYDERABAD.

O.A.No.1641 of 1995

Between

Dated.4.1.1996.

Prabash Chandra Mridha

.. Applicant.

and

1. Union of India rep. by its Secretary,
Ministry of Defence production,
Govt. of India, South Block New Delhi.
2. The Chairman/Director General of Ordnance
factory Board 10A Auckland road,
Calcutta.
3. Deputy Director General Ordnance
Factory, 10 A, Auckland road
Calcutta.
4. The General Manager, Ordnance
Factory, Yeddumailaram, Medak
Dist.
5. Sri.P.Sahoo, Additional General Manager
& Enquiry Officer, Ordnance Factory,
Yeddumailaram Medak.A.P.

.. Respondents.

Counsel for the Applicant: Sri.K.Lakshminarasimha

Counsel for the respondents : Sri.

CORAM; -

Hon'ble Mr.Justice V.Neeladri Rao, Vice Chairman

Hon'ble Mr.A.Rangarajan, Administrative Member

O.A.No.1641/95


Dt.of order 4.1.96

(Order passed by Hon'ble Shri R.Rangarajan, Member (A)



The charge Memo.No.02/00058/Est.dt.5.1.92 issued by respondent No.4 i.e., General Manager of Ordnance Factory, Yeddumailaram, Medak district is assailed^a in this OA.

2. It was contended inter alia that the General Manager is not competent to initiate disciplinary action against the applicant who was working as Chormen by the date of the charge memo (the applicant is now working as Chorgeman Gr.I). Part-V, xi(a) of Schedule of CCS(CCA) Acts shows that Dy.G.M. of Ordnance factory is the appointing authority in regard to the Assistant Foreman and also chorgeman Gr.I and he is competent authority to impose all the penalties referred to in Rule 11 of CCS(CCA) Rules. It does not lay down that the General Manager is competent to impose even minor penalties to Assistant Foreman or Chorgeman Gr.I. As such the contention of the applicant that the General Manager was not competent to initiate the disciplinary proceedings against the applicant when he was working as Assistant foreman has to be xx It may be noted that the General Manager is not competent to initiate Disciplinary proceedings even against chorgeman Gr.I the post in which the applicant is not working. As such the impugned charge memo has to be quashed. But this order does not debar the competent authority if so chooses to initiate Disciplinary Action against the applicant on the same allegations on the basis on which the impugned charge memo was issued.



25

:: 17 ::

3. The learned counsel for the applicant has also urged that as the alleged bribery is the basis for the impugned charge memo. the department has to act in accordance with the item -(ii) of the Government of India instructions under Rule-14 (vide letter of DGP&T No.5/67/64-Disc.dt.13.6.67. We are not adverting to the same as the charge memo is quashed on the ground that the Respondent 4 is not competent to issue the same.

4. In the result, the chargememo No.02/00058/Est. dated 5.1.92 is quashed. But this does not debar the competent authority, if so chooses to initiate disciplinary action against the applicant on the basis of the same allegations, on which the above charge Memo was issued.

5. The O.A. is ordered accordingly at the admission stage itself. No order as to costs.

Sd/-
Court Master.
Central Administrative Tribunal,
Hyderabad Bench

//true copy //



22

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

O.A.NO. 1413/97.

Dated: 10-11-97.

Between:

Sambhu Nath Das.

and

Applicant.

1. Union of India rep. by its Secretary,
Ministry of Defence Production,
Govt. of India, South Block, New Delhi.
2. The Chairman/Director General of Ordnance
Factory Board, 10A Auckland Road, Calcutta.
3. The Deputy Director General Ordnance Factory,
10A Auckland Road, Calcutta.
4. The General Manager, Ordnance Factory,
Yeddumailaram, Medak Dist.
5. Sri K.C.Mohan Rao, Inquiry Officer.

.. Respondents.

For the Applicant: Mr. K.Lakshmi Narasimha, Advocate.

For the Respondents: Mr. V.Vinod Kumar, Addl.CGSC.

CORAM:

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

THE HON'BLE MR.B.S.JAI PARAMESWAR : MEMBER(AUDL)

The Tribunal made the following Order:-

Part-heard Sri Lakshman Rao for Mr.K.Lakshmi Narasimha on behalf of the applicant and Mr.V.Vinod Kumar for the respondents, who undertakes to file a reply on or before Monday, the 17-11-97. The following points will have to be clarified in the reply.

- i) Is the General Manager competent to initiate action under Rule 14 of CCA(CCS) Rules against the applicant.
- ii) If he is not, who is the competent authority as per the Schedule of Disciplinary Powers under CCA(CCS) Rules,
- iii) If any authorisation has been issued by the Competent authority to the GM to initiate action under the said rules, it will have to be clarified.

(whether the original Disciplinary powers vested in the DG can be delegated to any other officer, if so, the precise authority for the same has to be cited.

List it on 17-11-97.


Deputy Registrar

O.A.. 1413/97.

To

1. The Secretary, Union of India,
Ministry of Defence Production,
Govt.of India, South Block, New Delhi.
2. The Chairman/Director General of Ordnance
Factory Board, 10A Auckland Road, Calcutta.
3. The Deputy Director General Ordnance Factory,
10 A Auckland Road, Calcutta.
4. The General Manager, Ordnance Factory
Yeddumailaram, Medak Dist.
5. Sri K.C.Mohan Rao, Inquiry Officer,
Deputy General Manager, HMS, Ordnance Factory Project,
Medak Dist.Yeddumailaram.
6. One copy to Mr. K.Lakshminarasimha, Advocate, CAT.Hyd.
7. One copy to Mr. V.Vinod Kumar, Addl.CGSC. CAT.Hyd.
8. One spare copy.

pvm.

Ravee

11/11/97 I Court.

TYPED BY:

CHECKED BY:

COMPARED BY:

APPROVED BY:

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE.
VICE-CHAIRMAN

And

THE HON'BLE MR. H. RAJENDRA PRASAD : M(A)

The Hon'ble Mr. B. S. Jaiparameswar : M (S)

DATED:- 10/11/97

~~ORDER/JUDGMENT.~~

M.A.,/RA.,/C-A.No..

in

O.A.No. 1413/97.

T.A.No.

(W.P.)

Admitted and Interim directions issued.

Allowed

lost on 17/11/97.

Disposed of with Directions.

Dismissed.

Dismissed as withdrawn

Dismissed for default

Ordered/Rejected

No.order as to costs.

केन्द्रीय प्रशासनिक अधिकरण Central Administrative Tribunal प्रेषण/DESPATCH 17 NOV 1997 हैदराबाद न्यायपीठ HYDERABAD BENCH

15

CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD
BENCH, HYDERABAD

O.A. No. 143 /97

Between

Sambhu Nath Das

.. Applicant

AND

1. Union of India
rep. by its Secretary
Ministry of Defence
Production
NEW DELHI.

2. The Chairman/DGOF
OFB, Calcutta.

3. DDGOF, Calcutta

4. The General Manager
OFPM, Yeddumailaram

and another

.. Respondents

** ** **

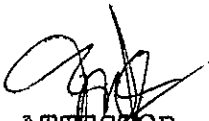
REPLY AFFIDAVIT FILED ON BEHALF OF RESPONDENTS

I, Manoj Kumar S/o Sri Awadhesh Sharan aged about 36 years R/o Ordnance Factory Estate, Yeddumailaram, Medak District do hereby solemnly affirm and sincerely state as follows :

1. I am working as Works Manager/Admin-II in Ordnance Factory Project, Yeddumailaram, Medak District as such, I am acquainted with the facts of the case. I am filing this reply affidavit on behalf of respondents and I am authorised to file the same.

2. With regard to para 4 of the O.A., it is submitted that the application is grossly barred by limitation. The applicant has challenged the Memorandum of Charges No. 02/00058/Estt/14 dt. 03.03.94 served on him by the Disciplinary Authority. If the Memorandum is invalid as contended by him, he should have challenged it within the time limit prescribed in the CAT Act, 1986. He has preferred the present OA after a lapse of more than 3 years and hence the OA is not maintainable due to being time barred.


.. 2


ATTESTOR
(B. UDAY KUMAR)
Works Manager/Admin.


DEPONENT
(MANOJ KUMAR)
Works Manager/Admin.

3. With regard to Para 5.1, it is submitted that the applicant was transferred to the Respondent No.4 factory w.e.f. 30.07.91. According to the schedule to Rule 12 of the CCS (CCA) Rules, 1965 the Disciplinary Authority in respect of incumbents holding the grade of Ch'man-I is DDGOF/OFB Calcutta. It is submitted that according to Rule 14 sub-rule (3) of CCS (CCA) Rules, 1965 the Disciplinary Authority shall draw up or cause to be drawn up the memorandum of charges and serve it on the delinquent employee concerned. It will thus be seen that Rule 14 of the CCS (CCA) Rules permit the Disciplinary Authority to authorise any subordinate authority to draw up the memorandum of charges and serve it on the delinquent employee concerned. In the case of the applicant, the Disciplinary Authority in exercise of the powers vested on him by sub-rule (3) of Rule 14 of CCS (CCA) Rules, 1965 issued a specific authorisation to the General Manager, O.F. Project, Yeddumailaram, Medak District to serve the Memorandum of Charges on behalf of the Disciplinary Authority. A copy of OFB, Calcutta letter No. 10286/A/Vig/1/94 dt. 10.02.94 and a copy of the Memorandum of Charges No. 02/00058/Estt/14 dt. 03.03.94 issued by the General Manager, Ordnance Factory Project, Medak District in pursuance to the above authorisation issued by the Competent Disciplinary Authority are filed as Annexures R-1 and R-2 respectively. It will be seen that the Memorandum of Charges was issued by the Respondent No.4 " BY ORDER AND IN THE NAME OF THE DY.DGOF ".


It is further submitted that if the applicant had any objection regarding validity of the Memorandum of Charges, he should have pointed out the same in his written statement of defence to the Memorandum of Charges. At that stage the applicant had not raised the question of validity of the memorandum of charges. Subsequently,


 ATTESTOR
 (B. UDAY KUMAR)
 Works Manager/Admin.


 DEPONENT
 (MANOJ KUMAR)
 Works Manager/Admn.

a Court of Enquiry was ordered vide Order No.02/00058/Estt/14 dt. 13.09.94. The applicant also participated in the enquiry during the last 3 years. At no stage he has raised the question of validity of the disciplinary proceedings. The enquiry has now been completed and one set of the Court of Enquiry proceedings have been forwarded to him vide Memorandum No. 02/00058/Estt/14/94 dt. 31.10.97 calling upon him to make his submissions or representations within 15 days. A copy of Memorandum No. 02/00058/Estt/14/94 dt. 31.10.97 is filed as Annexure R-3. In view of this, the plea advanced by the applicant that the disciplinary proceedings initiated against him has not been issued by the Competent Disciplinary Authority cannot be accepted at this belated stage firstly because the Competent Disciplinary Authority namely respondent No.3 had issued specific authorisation to Respondent No.4 in terms of sub-rule (3) of Rule 14 of the CCS (CCA) Rules, 1965 to initiate disciplinary proceedings upto the stage of Court of Enquiry proceedings against the applicant and secondly the applicant had accepted the Memorandum of Charges and participated in the Court of Enquiry proceedings throughout the last 3 years without raising any objection of the above nature. His raising the point of competency^{for} serving the Memorandum of Charges at this stage appear to be designed to delay the Disciplinary Proceedings.

4. With regard to para 6(i), it is not disputed that the Competent Disciplinary Authority in respect of the applicant is the DDGOF/OFB, Calcutta. As stated above, the DDGOF/OFB had issued a specific authorisation to GM/OFFM, Medak (Respondent No.4) to serve the Memorandum of Charges on the applicant " BY ORDER AND IN THE NAME OF THE DDGOF/OFB ". It was in pursuance to the specific authorisation issued


ATTESTOR
(B. UDAY KUMAR)
Works Manager/Admin.

.. 4

DEPONENT
(MANOJ KUMAR)
Works Manager/Admin.

by the Disciplinary Authority that the respondent No.4 had served the Memorandum of Charges on the applicant. In view of this, the Memorandum of Charges is perfectly valid and was issued to the applicant as per the provisions of the CCS (CCA) Rules, 1965.

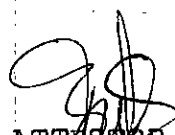
5. With regard to para 6(ii), the case cited by the applicant cannot be taken as a guideline in the present case because of the position explained in the foregoing paragraphs.

6. In view of the facts and circumstances explained above, the applicant has not made out any case for interference by the Hon'ble Tribunal. The application is devoid of merits and the Hon'ble Tribunal may be pleased to dismiss the O.A. with costs.


DEPONENT
(MANOJ KUMAR)
Works Manager/Admin.

Solemnly sworned and
signed his name on this
VIIth day of Nov 1997
before me.

Before me


ATTESTOR
(B. UDAY KUMAR)
Works Manager/Admin.

(iv) The Memorandum of Charge shall be delivered to the said NGO by the General Manager on behalf of the Dy. DGOF/ DISCIPLINARY AUTHORITY in terms of sub-rule 4 of Rule 14 ibid.

(v) Further followup action will be taken in the matter by the General Manager on behalf of the Disciplinary Authority in accordance with paras. 6 & 7 of the order referred to at (i) above read with Rules - 14 & 15 in particular and other relevant rules of CCS (CCA) Rules, 1965.

(vi) The inquiry should be conducted in the light of the guidance contained in the Hand Book of procedures for Inquiry Officer and presenting Officers issued by the C.F.B. The inquiry proceedings should be recorded and the inquiry report made strictly in the forms prescribed therein.

(vii) If any doubt or difficulty arises as to the implementation of this order or in the course of the subject proceedings, the matter shall be referred to the Disciplinary Authority for his decision and instructions.

(viii) The proceedings should be finalised within the period prescribed below : (a) If the case gets foreclosed as indicated in para-7(1) of the order referred to at (i) above - 30 days from the receipt hereof. (b) If the NGO does not participate in the inquiry and he is set ex-parte, -45 days from the receipt hereof. (c) If the inquiry goes off in a fullfledged manner - 90 days from the receipt hereof.

03. A copy of the charge-sheet, after issue and the complete service particulars of the NGO concerned may please be forwarded to this office immediately.

The receipt hereof may kindly be acknowledged.

(J.K. LAHIRI)
JT. DIRECTOR / VIG.

for & on behalf of the Disciplinary authority.

Copy to :-

Section - A/NG.

Arzavur R-129

CONFIDENTIAL

No. 10286/ A/VIG./1/94.
Government of India
Ministry of Defence
Ordnance Factory Board,
10A, Auckland Road,
Calcutta - 700 001.

Dated, the 10th Feb.'94

To
The General Manager,
Ord. Fy. Project
YEDDUMAILARAM
MEDAK.

Special Order under Rule - 14 (2), (3)
& (4) of CCS (CCA) Rules, 1955.

Sub:-- N.G.O. Disciplinary action against Shri S.N.Das,
Chargeman Gr.I (NT)/O.F.P.M.

Ref:-- OFB Circular Order No. 1480/A/VIG(Genl)
dt. 3rd July, 1980.

ii) GM/OFPM CON. DO NO. 02/00058/Est. dt. 31.1.94.

.....

The report received under reference at (ii) above has been carefully examined by the Disciplinary Authority in respect of the NGO referred to above. He is of the opinion that there are grounds for inquiring into the truth of the imputations of misconduct or misbehaviour against the said NGO as revealed in the reference at (ii) above.

It is, therefore, hereby ordered as follows:

(i) An inquiry should be held against the said NGO under Rules 14 & 15 of the CCS (CCA) Rules for the following offences :

Gross Misconduct - Wilful neglect of duty - unauthorised absence from duty w.e.f. 16.5.93, Failure to maintain devotion to duty- wilful disobedience of the order of the superior authority - Conduct unbecoming of a Govt. servant.

(ii) The General Manager is hereby directed to draw up a Memorandum of charges in the manner prescribed under sub-rule 3 of Rule 14 ibid on behalf of the Disciplinary Authority viz. the Dy. Director General, Ordnance Factories.

(iii) The said Memorandum of charges shall be signed by the General Manager "By order and in the name of the Dy. DOF". The form to be used for this purpose should be as per Annexure-I of this HQrs. circular mentioned above.

ANNEXURE - I

Statement of articles of charge framed against Shri

~~Shri S.N.Das, Ch'man Gr.I (NT/S)/Stores, OF Medak~~

That the said Shri ~~S.N.Das, Ch'man Gr.I (NT/S)/Stores, OF Medak~~
while functioning as ~~Ch'man Gr.I(NT/S)~~ during the period from

~~04-07-84~~ is alleged to have committed gross misconduct,
viz. (1) Wilful neglect of duty - unauthorised absence from duty

continuously from 16-05-93 to 28-02-94.

(2) Wilful disobedience of the orders of the superior authority.

(3) Failure to maintain devotion to duty.

(4) Conduct unbecoming of a Govt. servant.

ANNEXURE - II

Statement of imputations of misconduct or misbehaviour
in support of the articles of charge framed against Shri ~~S.N.Das,~~

~~Ch'man Gr.I (NT/S)/Stores, OF Medak~~

The following allegations will cover all the imputations
of charges listed in Annexure-I.

~~xxx~~ Separate sheet attached.

ANNEXURE - III

List of the documents by which the articles of charge
framed against Shri ~~S.N.Das, Ch'man Gr.I(NT/S)/Stores, OF Medak~~
are proposed to be sustained:

1. Record of attendance from 16-05-93 onwards maintained by Time Office/Stores Section of OF Medak in respect of Shri S.N.Das, Ch'man Gr.I(NT/S)/Stores Section.
2. Telegram No.06/008/TO, dtd 29-10-93 (Copy enclosed).
3. Telegram No.02/00058/Est, dtd 04-11-93 (copy enclosed).
4. SMO, G&SF Hospital Lr. No.GSH/301/CP, dtd 14-12-93 (copy enclosed).

ANNEXURE - IV

List of the witnesses by whom the articles of charge
framed against Shri ~~S.N.Das, Ch'man Gr.I(NT/S)/Stores,~~ are
proposed to be sustained: ~~OF Medak~~

1. Representative of Time Office.
2. Representative of Stores Section.

No.02/00058/Estt./14.
Government of India,
Ministry of Defence,
Ordnance Factory Project,
Yeddumailaram - 502 205.
Medak District (A.P.).

Date: 21-3-54

MEMORANDUM

The ~~Disciplinary Authority~~ proposes to hold and inquiry against

Shri ~~S.N.Das, Chitsan Gr.I (NT/S)/Stores, OF Medak~~
under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules 1965. The substance of the imputations of misconduct or mis-behaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure-I). A statement of the imputations of misconduct or mis-behaviour in support of each article of charge is enclosed (Annexure-II). A list of documents by which and a list of witnesses by whom the articles of charge are proposed to be sustained are enclosed (Annexure III & IV).

2. Shri ~~S.N.Das, Chitsan Gr.I (NT/S)/Stores, OF Medak~~ is directed to submit within 10 days of the receipt of this Memorandum a written statement of his defence and also to state whether he desires to be heard in person.

3. He is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should therefore, specifically admit or deny each article of charge.

4. Shri ~~S.N.Das, Chitsan Gr.I (NT/S)/Stores, OF Medak~~ is further informed that if he does not submit his written statement of defence on or before the date of specified in para 2 above, or does not appear in person before the inquiry authority or otherwise fails or refuses to comply with the provisions of Rule 14 of the CCS (CCA) Rules 1965 or the orders/directions issued in pursuance of the said Rule, the inquiring authority may hold the inquiry against him exparte.

5. Attention of Shri ~~S.N.Das, Chitsan Gr.I (NT/S)/Stores, OF Medak~~ is invited to Rule 20 of the Central Civil Services (Conduct) Rules 1964 under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt within these proceedings, it will be presumed that

Shri ~~S.N.Das, Chitsan Gr.I (NT/S)/Stores, OF Medak~~ is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the CCS (Conduct) Rules 1964.

6. Receipt of this memorandum may be acknowledged.

GENERAL MANAGER.

To, ~~AR.FI/CO/H~~ BY ORDER AND IN THE NAME OF BY.DUOP

Shri ~~S.N.Das, Chitsan Gr.I (NT/S)/Stores,~~
~~Adarshpalli, No.22, Railway Gate,~~
~~Kowachi Road, Shyannagar, 24 Parganas,~~

WEST BENGAL - 743 127.

BY REGISTERED POST A/D

31

ENCLOSURE TO ANNEXURE-II TO THE MEMORANDUM NO.
02/00058/Estt/14, DTD. 03-03-94.

ANNEXURE - II

Statement of imputations of misconduct or misbehaviour in support of the articles of charge framed against Shri S.N.Das, Chargeman Gr.I (NT/S)/Stores, OF Medak, Yeddumailaram.

The following allegations will cover all the imputations of charges listed in Annexure-I :

It is alleged that the said Shri S.N.Das, Chargeman Gr.I (NT/S)/Stores, OF Medak, Yeddumailaram has remained absent from duty continuously from 16-05-93 to 28-02-94 without sanction of leave by the competent leave sanctioning authority.

2. It is further alleged that during medical examination of the said Shri S.N.Das, Chargeman ~~Gr.I~~ Gr.I (NT/S)/Stores, OF Medak, Yeddumailaram by SMO, GSF Hospital on 10-12-93, he was found to be medically fit to perform sedantory duty and under-take travel and was accordingly advised by SMO, GSF Hospital for continuance of medical treatment at OFPM Hospital. The said Shri S.N.Das, Chargeman Gr.I (NT/S)/Stores, OF Medak, Yeddumailaram has disobeyed these instructions and failed to report to SMO I/C, OFPM Hospital.

3. By the above said actions, the said Shri S.N.Das, Chargeman Gr.I (NT/S)/Stores, OF Medak, Yeddumailaram has failed to maintain devotion to duty and it amounts to conduct unbecoming of a Govt. servant.

4. The charges are based on the record of attendance from 16-05-93 to 28-02-94 maintained by Time Office and Stores Section of OF Medak in respect of Shri S.N.Das, Chargeman Gr.I (NT/S)/Stores, Telegram No.06/008/TO, dated 29-10-93, Telegram No.02/00058/Estt., dtd 04-11-93 and SMO/G & SF Hospital letter No.GSH/301/CP, dtd 14-12-93 (copies enclosed).

.....

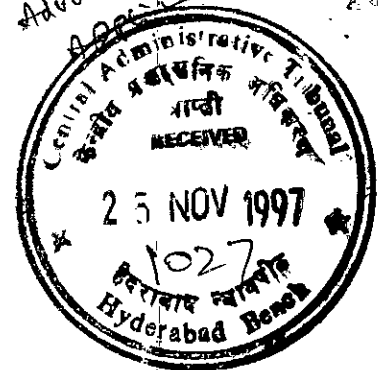
In the CAT HYD

O A NO 1413 of 97

Counter Affidavit

Recd Counter
And
Folien

Advocate for
Applicant



V. Vinod Kumar

Access

May be filed
29/11/97

Answer R332

No.02/00058/Estt/94/14:
Govt. of India
Ministry of Defence
Ordnance Factory Project,
Yeddumailaram - 502 205.

Date : 31-10-94

MEMORANDUM

Sub : NG/~~XXXXXX~~ - discipline.

Ref : 1. Memorandum of charges of even No. dated 3-3-94.

2. Enquiry order of even No. dated 13-09-94.

.....

One set of the proceedings of the Court of enquiry held in pursuant to the Enquiry order at ref.(2) above, is forwarded herewith.

2. The Disciplinary Authority will take a suitable decision after considering the enquiry report. If you wish to make any representation or submission, you may do so in writing to the Disciplinary Authority within 15 days from the date of receipt of this memorandum. If no reply is received within the stipulated period mentioned above, it will be assumed that you have no submission to make in this regard and further necessary action will be taken accordingly.

3. Receipt of this memorandum may please be acknowledged.

(V.S.HASTE)
ADDL.GM/ADMIN

BY ORDER AND IN THE NAME OF
DY.DGOF

To

Shri S.N.Das,
Ch'man Gr.I(NT/S)/stores,
P.No.820702.

THRO^o ADDL.GM/T

ORDER: Pronounced by the Hon'ble Ms. Usha Sen,
Administrative Member.

...

The applicant has filed this OA praying that the order dt. 15.6.91 imposing the penalty of reduction of pay to the minimum of the scale of Rs.1200-2040 for one year with cumulative effect and the appellate order dt. 15.9.92 upholding that penalty be set aside.

2. While working as Assistant Store Keeper (ASK for short) the applicant was issued a charge sheet under Rule 14 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965 (CCS (CCA) Rules for short) vide the memo dt. 5/10-9-81. The Articles of charges were as under:-

ARTICLE - 1

That the said Shri M. Varghese while functioning as Assistant Store-keeper in the Heavy Vehicles Factory, Tool Room had drawn approximately 4,550 carbide tips which he has not accounted in the inventory register - gross neglect of duty, resulting in heavy loss to the State.

33
9 APR 1996 Central Administrative Tribunal
Madras Bench

Monday, the 25th day of March, One Thousand Nine
Hundred and Ninety-six.

PRESENT

Hon'ble Mrs. Justice Padmini Jesudurai, Vice-Chairman

and

Hon'ble Ms. Usha Sen, Administrative Member.

O.A.No. 1335 of 1993

M. Varghese

... Applicant

..vs..

1. The Union of India
rep. by The General Manager
Heavy Vehicles Factory
Avadi
Madras-54.

2. The Jt. Director/VIG
 Ordnance Factory Board
No.10A Auckland Road
Calcutta.

... Respondents

Mr. G. Justin

... Applicant's Counsel

Mr. M. Veluswami

... Respondents' Counsel

ARTICLE - 7

That the said Shri M. Varghese while functioning as Assistant Store-Keeper in Store Room in the Heavy Vehicles Factory has committed acts amounting to making wrong and misleading remarks in documents-Misconduct.

An enquiry was held. The Inquiry Officer found that the following charges had been established:-

1. Non-accounting of items in the Inventory register.
2. Failure to submit the items to stock verifier for stock verification.
3. Lack of devotion to duty (failed to maintain issue records).
4. Failure to open an inventory sheet for the for the items drawn.
5. Raising of false alarm of threat.

The Disciplinary Authority (D.A. for short) agreed with the findings of the Inquiry Officer and imposed the penalty of reduction to the minimum of the pay scale for one year with cumulative effect. The order of the DA was passed on 15.1.1983. The applicant preferred an appeal dt. 2.3.83 against the order to the Chairman, Ordnance Factory Board, Calcutta. The appeal was dismissed.

..3 ..

ARTICLE - 2

That the said Shri M. Varghese while functioning as Assistant Store-keeper in the Heavy Vehicles Factory, Tool Room has committed acts amounting to misconduct leading to moral turpitude.

ARTICLE - 3

That the said Shri M. Varghese while functioning as Assistant Store-keeper in the Heavy Vehicles Factory, Tool Room has committed acts amounting to misconduct/lack of devotion to duty.

ARTICLE - 4

That the said Shri M. Varghese while functioning as Assistant Store-keeper in the Heavy Vehicles Factory, Tool Room has committed acts amounting to disregard to standing instructions - gross misconduct.

ARTICLE - 5

That the said Shri M. Varghese while functioning as Assistant Store-keeper in the Heavy Vehicles Factory, Avadi, Tool Room has committed acts amounting to disobedience of orders - gross misconduct.

ARTICLE - 6

That the said Shri M. Varghese while functioning as Assistant Store-keeper in the Heavy Vehicles Factory, Tool Room has committed acts amounting to misconduct - raised a false alarm of theft and suppression of facts.

3. The applicant has challenged the conduct of the proceedings of the enquiry and the findings of the Inquiry Officer on various grounds; the charge sheet was not signed by the General Manager who was his DA; there is no evidence to establish the charges; the enquiry was conducted in a biased manner; the Inquiry Officer ought not to have cross-examined the applicant in order to extract the truth; the Inquiry Officer did not ask the applicant to give a statement on the circumstances appearing against him in the evidence and thus denied him an opportunity to defend his case; having given a police report about the alleged theft it was illegal for the management to have framed a charge ^{of} raising of a false ^{alarm} of theft; the preliminary fact finding report was not given to him which has caused prejudice to him; the appellate order is not a speaking order and had not taken into account the submissions in his appeal.

Wsk

vide order dt. 22.7.87. Thereafter, he filed an OA
in this Tribunal which was decided by an order dated

12.7.89 setting aside the order of the DA on the ground
that the applicant was not given an opportunity to make
a representation on the findings of the Inquiry Officer
and was not supplied a copy of the report of the Inquiry
Officer. In compliance of this order the DA supplied
a copy of the Inquiry Officer's report to the applicant.

The applicant submitted his explanation dt. 22.9.89
against the findings. After a careful consideration of
the representation the DA came to the conclusion that the
applicant was guilty of the charges to the extent found
proved by the Inquiry Officer and imposed the same
penalty as by the earlier order (except that in the
interim period the pay scales had been revised
and so the reduction of pay was in the revised scale).

The applicant preferred an appeal against this order
which was rejected by the appellate authority vide
his order dt. 15.9.92.

observations:-

"Where there is some material on which the DA has accepted and which material reasonably supports the conclusion reached by the DA, it is not the function of the Administrative Tribunal to review the same and reach different finding than that of the DA. The Administrative Tribunal in this case had found no fault with the proceedings held by the Inquiry Authority. It has quashed dismissal order by reappreciating the evidence and reaching a finding different than that of the Inquiry Authority. In such a case, it is not necessary for the Supreme Court to go into the merits of appreciation of evidence by the two authorities as the Administrative Tribunal had no jurisdiction to sit as an appellate authority over the findings of the inquiring authority. Hence, the order of the Administrative Tribunal is set aside and the order dismissing the respondent is upheld."

6. The ground that since the charge-sheet was not signed by the General Manager who was his DA it is illegal and liable to be quashed has been replied to by the respondents by referring to Clause (3) of Rule 14 of the CCS (CCA) Rules which provides that the DA can draw up or cause to be drawn up the substance of the imputations of misconduct and the nature of the offence and distinct article of charge. Thus it is not necessary

4. The respondents have filed a reply rejecting the contentions of the applicant. They have asserted that full opportunity was given to him to defend himself, that the procedure prescribed in the CCS (CCA) Rules for conducting the enquiry was followed, that the findings of the Inquiry Officer are based on evidence, that there is no illegality in the issue of the charge-memo and that the appellate order is a speaking order.

5. We have perused the file of the respondents containing the record regarding the disciplinary proceedings in the instant case. We do not find it necessary here to reproduce the evidence based on which the Inquiry officer arrived at his findings. However we find that there is enough evidence to show that the findings are ^{as being} not perverse based on no evidence but those that a reasonable man would have arrived at. In Govt. of Tamil Nadu Vs. V.A. Rajapandian (1995)29 ATC 29 (SC) the Hon'ble Supreme Court has made the following

because the Inquiry Officer did not make a statement
the circumstances that appeared against the applicant
full opportunity had otherwise been given ^{to the applicant} for examination
of all evidence that has been relied upon by the Inquiry
Officer in arriving at his findings as well as the opportunity
to examine and cross-examine the witnesses. As regards the
ground that the preliminary fact finding report was not
made available to him, we find that there is nothing on
record to show that the applicant ever raised this point
during the course of the enquiry. On the other hand, we
find that in his representation dt. 22.9.89 against the
findings of the Inquiry Officer on being supplied a copy
of the Inquiry Officer's report he has stated that this
report and the Board of Enquiry Report were not given to
him in spite of his representation dt. 1.3.83 and 28.5.83.
This statement would show that he asked for these documents
only after the conclusion of ^{i.e.} enquiry, after the DA had
passed the initial order dt. 15.1.83 imposing the penalty

for the DA to himself sign the charge sheet so long as the same has been approved by him. He accept this stand. In fact the DA himself has stated in his order of 15.6.91 that the charge sheet was issued as had been approved by him. The grounds that the proceedings were conducted in a biased manner, that the Inquiry Officer should not have ~~cross-examined~~ ^{the applicant,} that the Inquiry Officer should have made a specific statement of the circumstances that appeared against him and obtained a reply from him are not acceptable for the reasons that the ground of bias cannot be raised after conclusion of the inquiry but ought to have been raised at the appropriate stage during the course of the enquiry; further the applicant has merely made an allegation of bias without citing the facts on which the allegation is based; the Inquiry Officer cannot be considered to be debarred from cross-examining the delinquent official in order to elicit the truth; the enquiry cannot be considered as vitiated merely

order. Since the Appellate order has been issued by

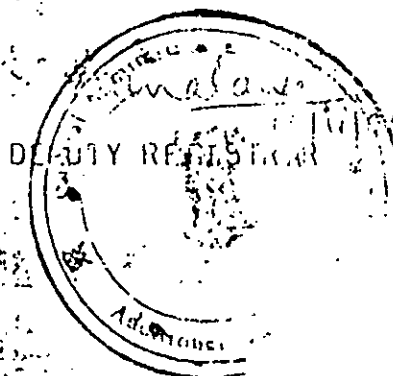
order and in the name of the Appellate Authority we

do not consider that any prejudice has been caused

to the applicant by its not being signed by the Appellate
Authority.

7. In the light of the discussion of the case
as above, we dismiss the OA with no order as to costs.

TRUE COPY



Index:

mb..

on him. Further, the DA has stated in his order dt. 15.6.91 in reply to this point of the applicant that to the extent reliance was placed on the facts brought out in these reports ~~to prove the charges they were~~ cited as documentary evidence and copies of such documents supplied to the Government servant as annexures. In the circumstances we do not find that there has been any violation of the principles of natural justice in the matter. As regards the contention of the appellate order not being a speaking order and its not being signed by the appellate authority we observe that this order cannot be construed as non-speaking keeping in view the fact that it is an order of affirmance of the findings of the Inquiry Officer and ~~in~~ these findings by the DA. An order of affirmance need not be more elaborate if the order of the DA is a reasoned.

39

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.1413/97

DATE OF ORDER : 30-6-1999.

Between :-

Sambhu Nath Das

... Applicant

And

1. Union of India rep. by its Secretary,
M/o Defence Production, Govt. of India,
South Block, New Delhi.
2. The Chairman/Director General of
Ordnance Factory Board, 10A
Auckland road, Calcutta.
3. Dy. Director General Ordnance Factory,
10A Auckland road, Calcutta.
4. The General Manager, Ordnance Factory,
Yeddumailaram, Medak District.
5. Sri K.C.Mohan Rao

... Respondents

-- -- -- --

Counsel for the Applicant : Shri K.Lakshmi Narasimha

Counsel for the Respondents : Shri V.Vinod Kumar, CGSC

-- -- -- --

CORAM:

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

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

(Order per Hon'ble Shri R.Rangarajan, Member (A)).





... 2.

(Order per Hon'ble Shri R.Rangarajan, Member (A)).

-- -- --

None for the applicant. Heard Sri V.Vinod Kumar,
Standing Counsel for the Respondents.

2. During the year 1994 the applicant was working as
Chargeman Gr.I (NT/S Stores, Ordnance Factory, Eddumailaram).
He was issued with a chargememo dated 3.3.1994. The said
chargememo is signed by the General Manager of the Ordnance
Factory.

3. The applicant has filed this O.A. challenging the said
charge memo solely on the grounds that the General Manager is
not the competent authority to issue the charge memo and
therefore the charge memo has to be quashed.

4. The Respondents have filed their reply in justification
of the charge memo. They rely upon Rule-3 of Rule-14 of CCS
(CCA) Rules, wherein it is stated that the Disciplinary
Authority ^{// Shall} ~~may~~ draw ^{up} or cause to be drawn up "a charge sheet.
The learned counsel for the Respondents ^{rely} ~~rely~~ on the said
phrase. We enquired with the learned Standing Counsel for the
Respondents whether the General Manager is ^{the} competent authority
to impose any of the penalties either minor or major indicated
in Rule-11. This query ^{to ascertain whether} was made ~~if~~ the General Manager was
atleast competent to impose the minor penalties, then the
applicant cannot question the charge memo signed by the
General Manager. The learned Standing Counsel submits that
the General Manager is not competent to impose any of the


penalties as per the instructions. He has also shown the PART V - Civil Posts in Defence Services i.e. the rules in regard to the appointing authorities and penalties which it may be imposed, which is re-produced below :-

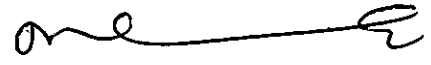
(xi)(a) All Grade 'C' posts of	'Dy. Director -'	'Dy. Director -'
Chargeman, Gr. I, Asstt. Store	General,	General,
Holder, Asstt. Foreman,	'Ordnance	'Ordnance
Store Holder, Foreman,	'Factories.	'Factories.
Principal Foreman, and	:	:
equivalent posts.	:	:

The applicant in this O.A. is chargeman Gr. I. His ^{appointing} ~~Appellate~~ Authority is Dy. Director General of Ordnance Factories. The authority competent to impose ^{the} penalty is also same authority. The General Manager finds no place in regard to imposition of penalty as per their own Department Rules. Hence it is not understood ^{as k} ~~that~~ how the Standing Counsel asserts that the General Manager ^{the} ~~as~~ Head of the Department ~~is~~ is always competent to issue ^a charge memo when he is not even empowered to impose minor penalties on chargeman Gr. I. The learned Standing Counsel relies on the judgement of the Madras Bench of the Tribunal. In ~~that~~ ^{therein was} O.A., it is submitted that the applicant ~~is~~ a Store Keeper. When a question is asked to the learned Standing Counsel whether the Store Keeper is equivalent to Chargeman Gr. I, he replied in negative. Hence the reliance on that case is not relevant.


5. In view of what is stated above, the charge sheet ~~only~~ ^{only} is liable to be set aside. Accordingly it is set aside, but ^{liberty} liberty is given to the respondents to issue a fresh charge sheet by the competent authority as the ^{present} charge sheet is set aside

on technical grounds. Accordingly O.A. is ~~dismissed~~. No
order as to costs.


(B.S. JAI PARAMESHWAR)
30.6.99 Member (J)


(R. RANGARAJAN)
Member (A)

Dated: 30th June, 1999.
Dictated in Open Court.


2098

avl/

COPY TO:-

1. HQHNJ
2. HHAP M(A)
3. HBSJP M(J)
4. D.R.(A)
5. SPARE

1ST AND 2ND COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD.

THE HON'BLE MR. JUSTICE D.H. NASIR
VICE - CHAIRMAN

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

THE HON'BLE MR. R. RANGARAJAN :
MEMBER (A)

THE HON'BLE MR. B. S. JAI PARAMESWAR :
MEMBER (J)

ORDER: 30-6-99

ORDER / JUDGEMENT

MA./RA./CP No.

in

GA. No. 1413/97

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

ALLOWED.

C.P. CLOSED.

R.A. CLOSED.

O.A. CLOSED.

DISPOSED OF WITH DIRECTIONS.

DISMISSED.

DISMISSED AS WITHDRAWN.

ORDERED / REJECTED.

NO ORDER AS TO COSTS.

SRR

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
दस्तावेज / DESPATCH

22 JUL 1999

हैदराबाद ब्याचपीट
HYDERABAD BENCH

Mcdate

DISTRICT

In the Central
Administrative Tribunal
HYDERABAD
A.P.

61 No.

of 19 7

VAKALAT

ACCEPTED

K. Lakshmi Narasimha
[Signature]

Petitioner

Advocate for Respondent

Date 16/9/ 19 92

K. Lakshmi Narasimha, LL.M.

Petitioner

Advocate for Respondent

Phones : 549001
549110

Address for Service

16-11-20/13, Saleem Nagar-2,
Hyderabad-500 036.

**IN THE CENTRAL
ADMINISTRATIVE TRIBUNAL
HYDERABAD. A.P.**

O.A. No. 1413 of 19 97.

Between :

S. N. Das.

Petitioner

AND

Union of India rep by its Secretary - Respondent

Ministry of defence - Production -

I
We

New Delhi and others -

Petitioner
Respondent

do hereby appoint and retain

K. LAKSHMI NARASIMHA, LL.M.

ADVOCATE

Advocate to appear for me / us in the above/case / appeal / Petition and to conduct and prosecute (or defend) the same and all proceedings that may be taken in respect of any application for execution of any decree or order passed therein, I/we empower my/our, Advocates to appear in all miscellaneous proceedings in the above case to matter till all decrees or orders any fully satisfied or adjusted to compromise and to obtain the return of documents and draw any moneys that might be payable to me/us in the said case or of matter (and I/we do further empower my our Advocate to accept on my/our behalf service of all or any appeals or petitions filed in any court of Appeal, reference of Revision with regard said suit or matter before the disposal of the same in this Honourable Court)



S. N. Das

Certified that the executant who is well acquainted with English and this Vakalatnama and the contents of the Vakalatnama were read out and explained in Telugu/English/Urdu to executant or he/she they being unacquainted with English who appeared perfectly to understand the same and signed of put his/her their name or mark in my presence.

Executed

16

day of

Sept

19 97

[Signature]
Advocate

(L. S. Madhavi)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH, A.P.

O.A.No.

1413

of 1997

Sambhu Nath Das

Applicant

UOI reply Secretary
To, Ministry of Defence New Delhi
we before
THE REGISTRAR,
CENTRAL ADMINISTRATIVE TRIBUNAL,
HYDERABAD.



Respondent

Sir,

Please enter my appearance on behalf of the Applicants / Respondent.

V. Vinod Kumar

ADDL. CENTRAL GOVT. STANDING COUNSEL,
CENTRAL ADMINISTRATIVE TRIBUNAL,
HYDERABAD.

Hyderabad

2-11-1997

Counsel : Applicants
Respondents

FORM NO.9.
(See Rule 29)

BY R.P.A.D.

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD.
1st Floor, HACA Bhavan, Opp:Public Garden, Hyderabad.500004.A.P.

ORIGINAL APPLICATION NO.

OF 199

1413

7.

Applicant(S)

V/S

Respondant(S)

Santhi Nath Das

Secy.S/Def., Govt. of India, S.2block, New Delhi

By Advocate Shri:

K.L. Narasimha

SCrs.

(BY CENTRAL GOVT. STANDING COUNSEL)

TO.

Sri.V.Vinod Kumar, All.013C.

1. Union of India rep. by its Secretary, Ministry of Defence Production, Govt. of India, South Block, New Delhi.
2. The Chairman/Director General of Ordnance Factory Board, 10a Auckland road, Calcutta.
3. Deputy Director General Ordnance Factory, 10a Auckland road, Calcutta.
4. The General Manager, Ordnance Factory, Yedumailaram, Medak Dist
5. Sri. K.C.Nohar Rao, was appointed as Enquiry Officer, Dy. General Manager, HMS, Ordnance Factory Project, Medak Dist, Yedumailaram

Whereas an application filed by the above named applicant under section 19 of the Administrative Tribunal Act, 1985 as in the copy annexed hereunto has been registered and upon preliminary hearing the Tribunal has admitted the application.

Notice is hereby given to you that if you wish to contest the application, you may file your reply along with the document in support thereof and after serving copy of the same on the applicant or his Legal Practitioner within 30 days of receipt of the notice before this Tribunal, either in person or through a Legal Practitioner Presenting Officer appointed by you in this behalf. In default, the said application may be heard and decided in your absence on or after that date without any further Notice.

Issued under my hand and the seal of the Tribunal

This the First day of April, 1998.

Date 5.4.98.

//BY ORDER OF THE TRIBUNAL//

