

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))



✓
:: 16 ::

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

2. It was contended interalia that the General Manager is not competent to initiate disciplinary action against the applicant who was working as Charman by the date of the charge memo (the applicant is now working as Chargeman 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 chargeman 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 Chargeman 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 chargeman 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 deprive 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.



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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 depar 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 //



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 (JUDL)

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
Yeddu-mailaram, Medak Dist.
5. Sri K.C.Mohan Rao, Inquiry Officer,
Deputy General Manager, HMS, Ordnance Factory Project,
Medak Dist.Yeddu-mailaram.
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.

Rao
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(J)

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

list 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 आयपीठ
HYDERABAD BENCH

1/1
VS

CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD
BENCH, HYDERABAD

O.A. NO. 1413 /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
OFPB, Yeddu-mailaram
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, Yeddu-mailaram, Medak District do hereby solemnly affirm and sincerely state as follows :

1. I am working as Works Manager/Admin-II in Ordnance Factory Project, Yeddu-mailaram, 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/Estdt/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.

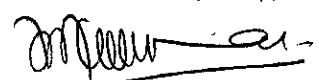
:: 2 ::

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, Yeddu-mailaram, 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,

.. 3


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


DEPONENT
(MANOJ KUMAR)
Works Manager/Admin.

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:: 3 ::

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 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/OFPM, 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

.. 4


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


DEPONENT
(MANOJ KUMAR)
Works Manager/Admin.

:: 4 ::

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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.

Manoj Kumar
DEPONENT
(**MANOJ KUMAR**)
Works Manager/Admin.

Solemnly sworn and
signed his name on this
11th day of Nov 1997
before me.

Before me

B. Uday Kumar
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 & 11 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.P.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 at (i) above - 30 days from the receipt hereof. (b) If the NGO does not participated in the inquiry and he is set ex parte, -45 days from the receipt hereof. (c) If the inquiry comes 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.

Annexure

R-129

CONFIDENTIAL

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

To
The General Manager,
Ordnance Factory Project
YEDDUMAILARAM
MEDAK.

Dated, the 10th Feb. '94

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/OFPN CON. DO NO. 02/00058/Estd. dt. 31.1.94.

.....

The report received under reference at (ii) above has been carefully examined by the Disciplinary Authority in respect of the NCO 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 NCO as revealed in the reference at (ii) above.

It is, therefore, hereby ordered as follows:

(i) An inquiry should be held against the said NCO 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. D.O.F". 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

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.

~~Exhibit~~ 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/T0, 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, OF Medak are proposed to be sustained:

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

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

Date: 21/03/54.

M E M O R A N D U M

The undersigned authority proposes to hold and inquiry against Shri [redacted]

Shri S.H.Das, Chittan Gr. I (M/S) Stores, Or 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.H.Das, Chittan Gr. I (M/S) Stores, Or 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.H.Das, Chittan Gr. I (M/S) Stores, Or 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 (CC&A) Rules 1965 or the orders/directions issued in pursuance of the said Rule, the inquiring authority may hold the inquiry against him ex parte.

5. Attention of Shri S.H.Das, Chittan Gr. I (M/S) Stores, Or 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.H.Das, Chittan Gr. I (M/S) Stores, Or 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,

BY ORDER AND IN THE NAME OF D.Y.DOP

Shri S.H.Das, Chittan Gr. I (M/S) Stores,
Adarshpalli, No.22, Railway Gate,
Kowachi Head, Shyamnagar, 24 Parganas.

NETT RENTAL - 743 127.

BY REGISTERED POST AIR

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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 (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 Gvt. 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/TC, 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).

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In the CAT HYD

Case No 1413 of 97

Counter Affidavit

Revd Counter
Held
Forien
Advocate-Gen
Appd



V. Vinod Kumar
Access

May 14 1998
29/1/98

Arasan R332

No. 02/00058/Estt/94/142
Govt. of India
Ministry of Defence
Ordnance Factory Project,
Yeddu-mailaram - 502 265.

Date : 31 10 94

MEMORANDUM

Sub : NG/~~ADOLEX~~ - 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.DGOP

To

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

THRO' 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.

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OF 8
19 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 ... Respondents
Ordnance Factory Board
No. 10A Auckland Road
Calcutta.

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 Wool 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 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.

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 conduct 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.

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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 intervening 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 relevant material 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 shall do so in a clear and distinct article of charge. Thus it is not necessary
- UWT

4. The respondents have filed a reply refuting 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 89 (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 inspite 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 the 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. We 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

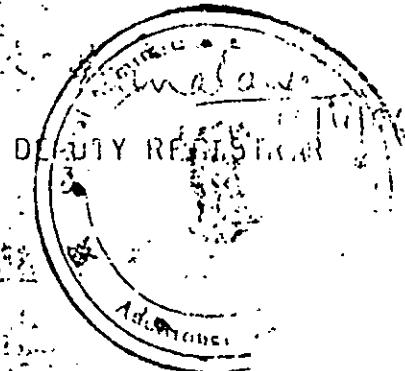
do not consider that any prejudice has been caused

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.

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on him.' Further, the DA has stated in his order at,

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 notifying 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 the analysis of these findings by the DA. An order of affirmance need not be more elaborate if the order of the DA is a reasoned.

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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)).

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... 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 relying 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 was made ^{to ascertain whether} 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 Appellee ^{appointing} [^]

Authority is Dy. Director General of Ordnance Factories. The

authority competent to impose penalty is also ^{the} same authority.

The General Manager finds no place in regard to imposition of

penalty as per their own Department Rules. Hence it is not

as K
understood that, how the Standing Counsel asserts that the

the
General Manager as Head of the Department ~~he~~ is always competent

^a
to issue charge memo when he is not even empowered to impose

minor penalties on chargeman Gr.I. The learned Standing Coun-

relies on the judgement of the Madras Bench of the Tribunal.

therein was

whether the Score 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~~ is liable ^{only} to be set aside. Accordingly it is set aside, but ~~the~~

liberty is given to the respondents to issue a fresh charge

present
sheet by the competent authority as the charge sheet is set aside

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

allowed with liberty as mentioned
above.

B.S.JAI PARAMESHWAR
(B.S.JAI PARAMESHWAR)
30/6/99 Member (J)

R.RANGARAJAN
(R.RANGARAJAN)
Member (A)

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

Am
7-7-99

av1/

IST AND IIND COURT

COPY TO:-

1. HONJ
2. HHRP M(A)
3. HBSJP M(J)
4. D.R. (A)
5. SPARE

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD.

THE HON'BLE MR. JUSTICE D.H. WASIR
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.
OA. 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 अधिकारी
Central Administrative Tribunal
हैदराबाद / DESPATCH

22 JUL 1999

हैदराबाद न्यायालय
HYDERABAD BENCH

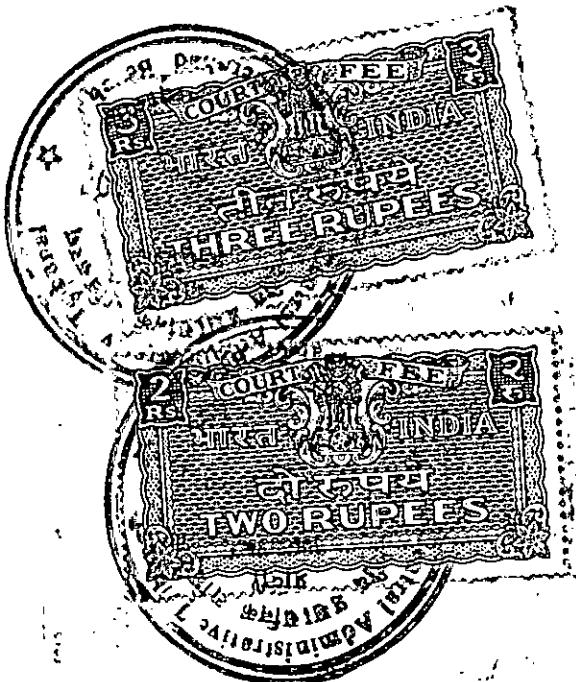
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DISTRICT

In the Central
Administrative Tribunal
HYDERABAD
A.P.

6A No.

of 19 7



VAKALAT

ACCEPTED

K. Narasimha

Petitioner
Advocate for Respondent

Date 16/9/1992

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.

OA No. 1413 of 1997.

Between :

S. N. Das

Petitioner

AND

Union of India ref by its Secretary Respondent

Ministry of Defence Proclamation —

New Delhi and others —

Petitioner

Respondent

1
We

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 are 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

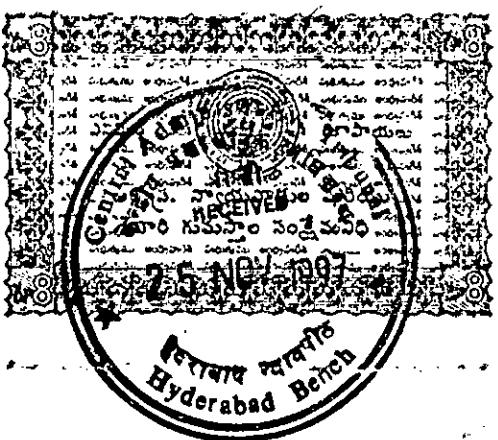
day of

Sept

19 97

Advocate

C. L. S. Melly



Central Administrative Court,
Hyderabad Bench
Hyderabad.

O.A.No. 1443 of 1997

Memo of Appearance

Addl. Central Govt. Standing Council

Address for Service : Phones : O/H : 290792
: 294419
207, Rahmath Commercial Complex,
7-1-616, Ameerpet X Roads,
HYDERABAD-500 873.

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

O.A.No.

1413

of 1997

Sambhu Nath Das

Applicant

U.O.F. reply Secretary
Ministry of Defence, New-Delhi
To, ~~Ministry of Defence, New-Delhi~~
THE REGISTRAR,
CENTRAL ADMINISTRATIVE TRIBUNAL,
HYDERABAD.



Sir,

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

V. Vinod Kumar
Addl. CENTRAL GOVT. STANDING COUNSEL
CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD.

Hyderabad
2-11-1997

Counsel : Applicants
Respondents

BY.R.P.A.D.

FORM NO.9.
(See Rule 29)

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)

Seethu Seth Das

V/S

Respondent(s)

Secy. S/Def., Govt. of India, S. Block, New De

By Advocate Shri:

K.L. Narasimha

(BY CENTRAL GOVT. STANDING COUNSEL)

TO.

Sri. V. Vinod Kumar, All. OJSC.

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

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**, 199

8.

Date: **5.4.98.**

//BY ORDER OF THE TRIBUNAL//



24 APR 1998

Despatch NEW

RECEIVED

24 APR 1998