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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH

AT HYDERABAD

O.A.No.314/99

Date of Order :2.3.2000

BETWEEN :

A.Lakshmi Narayana

..Applicant.

AND

1. The Director,
S.V.P.National Police Academy,
Shivrampalli, Hyderabad.

2. The Dy.Director,
Administration,
S.V.P.National Police Academy,
Shivrampally, Hyderabad.

..Respondents.

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Counsel for the Applicant

..Mr.J.M.Naidu

Counsel for the Respondents

..Mr.B.N.Sharma

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CORAM :

HON·BLE SHRI R.RANGARAJAN : MEMBER(ADMN.)

HON·BLE SHRI B.S.JAI PARAMESHWAR : MEMBER(JUDL.)

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O R D E R

)(As per Hon·ble Shri B.S.Jai Parameshwar, Member(J)

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Mr.J.M.Naidu, learned counsel for the applicant
and Mr.M.C.Jacob for Mr.B.N.sharma, learned standing
counsel for the respondents.



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2. The applicant herein is working as L.D.C. in the S.V.P.National Police Academy, Hyderabad.

3. With respect to certain incidents that occurred on the evening of 21.7.98, R-2 herein issued a charge memo bearing No.21011/09/98-Estt., dated 17.8.98 (A-1).

4. The misconduct alleged against the applicant reads as follows :-

That the said Shri A.Lakshminarayana, while functioning as L.D.C. in the Training Section, on the afternoon of 21st July, 1998, when Shri A.Venkateswara Rao, L.D.C. working in the Establishment Section was on 1/2 day Casual Leave, unauthorisedly got opened the drawer of the Office Table of Shri A.Venkateswara Rao, L.D.C. by using a duplicate key through the Office Peon Shri P.Krishna and took out the File No.11011/8/94-Estt. regarding adhoc appointment of Data Entry Operators in the Academy. Shri A.Lakshminarayana, L.D.C. has, therefore, acted in an irresponsible manner unbecoming of a Govt. Servant, and his conduct is violative of Rule 3(1)(iii) of CCS(Conduct)Rules, 1964.

Shri A.Lakshminarayana, L.D.C., who was the Course Clerk of Trg. Administrators Course in the Academy then unauthorisedly obtained Photo Copies of six pages i.e. from page No.7 to 12 of File No.11011/8/94-Estt.

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viz letter No.11011/8/94-Estt. dated 19.12.94 its enclosure (two pages), District Employment Exchange R.R.Dist. Letter No.A2/94/466/00 dtd 20/XII/94 (2 pages) and its enclosure i.e. list of 40 candidates sponsored by them, relating to the adhoc appointment of the Data Entry Operators in the Academy which were available in the above said file from the Xerox Section of the Academy on 21.07.98 at about 5.45 P.M. through the Office Peon SHri P.Krishna and supplied the above mentioned documents unauthorisedly to Shri K.Vinod Kumar, Data Entry Operator working in the Academy.

The above conduct of Shri A.Lakshminarayana is a violation of Rule 11 of CCS (Conduct) Rules 1964.

5. The applicant submitted his explanation to the charge memo.

6. Enquiry was conducted into the charge memo by the Assistant Director (Law) of the Academy. The enquiry officer by his report dated 10.11.98 recorded the finding that the Charge No.1 levelled against the applicant was not proved and Charge No.2 was proved.

7. A copy of the report of the enquiry officer was furnished to the applicant. The applicant submitted his explanation on 25.11.98 (Page-35).



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8. The R-2^{after} considering the representation and also the report of the enquiry officer, imposed the penalty of reduction of pay of the applicant by 3 stages from Rs.3961/- p.m. to Rs.3736/- p.m. in the time scale of pay of Rs.3050-4590 for a period of 3 years w.e.f. 15.12.98 and further directed that the applicant would not earn increments of pay during the period of reduction and that on the expiry of this period the reduction would have the effect of postponing his future increments of pay.

9. Against the said punishment order the applicant submitted an appeal to R-1 on 21.12.98.

10. The R-1 by the proceedings dated 23.11.99 (A-11) considered the appeal and rejected the same.

11. The applicant has filed this application challenging the order dated 18.11.98 passed by R-2 and order dated 23.1.99 passed by R-1.

12. He has challenged the impugned orders on the grounds that no specific charge/conduct levelled against him, that the R-2 had not given any reasons in his ~~decent~~ note while disagreeing with the findings of the enquiry officer so far as it related to Charge No.1, that no opportunity was given to the applicant with regard to the charge No.1 as the enquiry officer had recorded the finding favourably^e to him. He further submits that Shri A.Venkateswara Rao was also

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involved and no action has been taken against him.
The said ground appears to be out of context.

13. The respondents filed the reply justifying the action taken by them in the impugned orders.

14. The main contention of the applicant is that the disciplinary authority while disagreeing with the findings recorded by the enquiry officer with regard to Charge No.1 has not given note of disagreement to the applicant to enable him to explain his stand.

15. On going through the punishment order, paras-4, 5 and 6 clearly indicate that the disciplinary authority was not agreeing with the reasonings of the enquiry officer and even in para-5 he has expressed his own reasons for coming to the different conclusion than the conclusion reached by the enquiry officer. The same reasons should have been furnished to the applicant before taking a decision in the matter of imposing the penalty and obtained the views of the applicant before passing the order.

16. The disciplinary authority when proceeds to disagree with the findings of the enquiry officer we feel that he is duty bound to furnish the notes of disagreement to the delinquent employee. Our views receives support from the decision of the Hon'ble Supreme Court in the case of Punjab National Bank Vs. Kunj Behari Mishra and another reported _____



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in AIR 1998 SC 2713.

17. The appellate authority has not considered this aspect of the matter. Hence, we feel it proper to set aside the impugned orders with liberty to the disciplinary authority to furnish the notes of his disagreement to the applicant and to pass final order after obtaining the views of the applicant, thereto.

18. Hence we pass the following order :-

(a) The impugned orders dated 18.11.98 and 23.1.99 are hereby set aside.

(b) The disciplinary authority shall furnish the notes of disagreement to the applicant, and pass the final order after obtaining the views of the applicant.

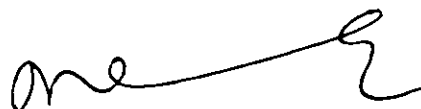
19. With the above direction the OA is allowed.

No costs.



(B.S. JAI PARAMESHWAR)

Member (Judl.)



(R. RANGARAJAN)

Member (Admn.)

Dated : 2nd March, 2000

(Dictated in Open Court)

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