

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

O.A. No. 285/94

199

~~Ex. No.~~

DATE OF DECISION 12.7.94

O.P.Srivastava Petitioner

Shri S.K.Saksena Advocate for the Petitioner (s)

Versus

Union of India & Anr. Respondent

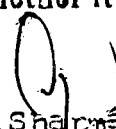
Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. Gopal Krishna, Member (Judl.)

The Hon'ble Mr. O.P.Sharma, Member (Adm.)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?


(O.P.Sharma)
Member (A).

(Gopal Krishna)
Member (J).

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

Date of Decision: 12.7.94.

OA 285/94

O.P. SRIVASTAVA

... APPLICANT.

Vs.

UNION OF INDIA & ANR.

... RESPONDENTS.

CORAM:

HON'BLE MR. GOPAL KRISHNA, MEMBER (J).

HON'BLE MR. O.P. SHARMA, MEMBER (A).

For the Applicant

... SHRI S.K. SAXENA.

For the Respondents

... ---

PER HON'BLE MR. O.P. SHARMA, MEMBER (A).

Shri O.P. Srivastava has filed this application u/s 19 of the Administrative Tribunals Act, 1985, praying that the memorandum dated 23.5.93 (the correct date should be 23.5.92) under Rule 8 of the All India Services (Discipline & Appeal) Rules, 1969, initiating disciplinary proceedings against the applicant, and other orders dated 9.11.93 and 20.11.93 may also be quashed.

2. The applicant, who was earlier member of Rajasthan Administrative Service, was later appointed to Indian Administrative Service. While he was working as an IAS Officer, a memorandum of charges dated 23.5.92 was issued to him initiating disciplinary proceedings against him in respect of a matter which he had handled as a member of Rajasthan Administrative Service. The applicant retired from service on superannuation on 28.1.93, as stated before us by the learned counsel for the applicant.

3. We have heard the learned counsel for the applicant and have gone through the records. The main thrust of the arguments of the learned counsel for the applicant is that there is in fact no substance in the charge-sheet. The charges framed against the applicant are untenable, according to him, inasmuch as the applicant was a member of a Nazul Committee when the decision in question was taken, on the basis of which allegations of misconduct have been made against him in the charge-sheet. Earlier, the matter had been inquired into and had been closed by the Lok Ayukt. ~~Resubmitted.~~

The matter has been reopened on account of vengeance and vindictiveness and with the view to harassing the applicant. On merits also the charges against the applicant are not maintainable, according to him.

4. We have carefully considered the matter. The charge-sheet was served upon the applicant when he was in service. According to the learned counsel for the applicant, an enquiry officer has already been appointed to inquire into the charges. It is the function of an enquiry officer to inquire into the charges and submit report to the appropriate authority. The Tribunal cannot take over the functions of an enquiry officer and examine the correctness or otherwise of the charges framed against the applicant. The charge-sheet was served under the All India Service Rules at a time when the applicant was in service and pertains to a matter which he had dealt with in his official duty. We, therefore, do not find any prima-facie illegality in the very fact of issue of the charge-sheet in this case. In the case of Union of India & Others Vs. Upendra Singh, reported at 1994 (1) SLR 831, the Hon'ble Supreme Court have dealt with in detail the question regarding authority and the jurisdiction of the Tribunal to pronounce upon charge-sheets issued to Govt. servants. This is what the Hon'ble Supreme Court have stated in paras 6 and 7 of their judgement;

"6. In the case of charges framed in a disciplinary inquiry the Tribunal or Court can interfere only if on the charges framed (read with imputation or particulars of the charges, if any) no misconduct or other irregularity alleged can be said to have been made out or the charges framed are contrary to any law. At this stage, the Tribunal has no jurisdiction to go into the correctness or truth of the charges. The Tribunal cannot take over the functions of the disciplinary authority. The truth or otherwise of the charges is a matter for the disciplinary authority to go into. Indeed, even after the conclusion of the disciplinary proceedings, if the matter comes to court or Tribunal, they have no jurisdiction to look into the truth of the charges or into the correctness of the findings recorded by the disciplinary authority or the appellate authority, as the case may be. The function of the Court/Tribunal is one of judicial review, the

parameters of which are repeatedly laid down by this court. It would be sufficient to quote the decision in H.B. Gandhi, Excise & Taxation Officer-cum-Assessing Authority, Karnal & Ors. v. M/s. Gopi Nath & Sons & Ors. (1990 Supp (2) SCC 312)...

"Judicial review, it is trite, is not directed against the decision but is confined to the decision making process. Judicial review cannot extend to the examination of the correctness or reasonableness of a decision as a matter of fact. The purpose of judicial review is to ensure that the individual receives fair treatment/reaches, on a matter which it is authorised by law to decide, a conclusion which is correct in the eyes of the Court. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. It will be erroneous to think that the Court sits in judgement not only on the correctness of the decision making process but also on the correctness of the decision itself."

and not to ensure that the authority after according fair treatment

7. Now, if a Court cannot interfere with the truth or correctness of the charges even in a proceeding against the final order, it is un-understandable how can that be done by the Tribunal at the stage of framing of charges ?..

5. In the circumstances of the present case, when only a charge-sheet has yet been issued to the applicant and there is neither any prima-facie illegality in the issue of the charge-sheet nor does the charge-sheet on the face of it reveal that no misconduct whatsoever has been committed by the applicant, we cannot interfere in the matter. The application is, therefore, dismissed at the admission stage.

(O.P. SHARMA)
MEMBER (A)

C. Krishna
(GOPAL KRISHNA)
MEMBER (J)