

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

O.A. No. 363/96
T.A. No.

199

DATE OF DECISION 14.9.2001

Mam Chand Bajoria Petitioner

Mr. Shiv Kumar Advocate for the Petitioner (s)

Versus

Union of India & Ors Respondent

S.M.Khan Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. S.K. Agarwal, Member (J)

The Hon'ble Mr. S.A.T. Rizvi, Member (A).

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

S.A.T. Rizvi
(S.A.T. Rizvi)
Member (A)

S.K. Agarwal
(S.K. Agarwal)
Member (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

O.A.No.363/96

Date of order: 14/3/2001

Mam Chand Bajoria, S/o Sh.Makhanlal, Ex.Postman, Head Post Office, Alwar.

...Applicant.

Vs.

1. Union of India through the General Manager, W.Rly, Churchgate, Mumbai.
2. Chairman, Railway Board, Rail Bhawan, New Delhi.
3. The Divisional Personnel Officer, W.Rly, Jaipur Division, Jaipur.
4. Sr.Divisional Mechanical Engineer(E), W.Rly, Jaipur Division, Jaipur.

...Respondents.

Mr.Shiv Kumar : Counsel for applicant

Mr.S.M.Khan : for respondents.

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member.

Hon'ble Mr.S.A.T.Rizvi, Administrative Member.

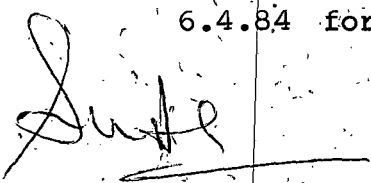
PER HON'BLE MR S.K.AGARWAL, JUDICIAL MEMBER.

In this O.A filed under Sec.19 of the ATs Act, 1985, the applicant makes a prayer to quash and set aside the impugned orders at Annx.A1 dated 18.7.84 and Annx.A2 dated 26.6.95 and to direct the respondents to reinstate the applicant in service with all consequential benefits.

2. By an order dated 18.7.84 (Annx.A1) the applicant was dismissed from service.

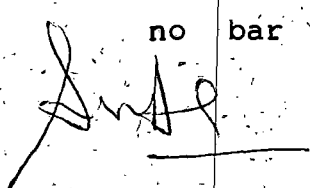
3. By an order dated 26.6.95 (Annx.A2) the revision petition filed by the applicant was rejected.

4. Facts of the case as stated by the applicant are that he was served with a memorandum of charge sheet dated 6.4.84 for initiating enquiry against the applicant under



Rule 14 of the CCS (CCA) Rules, 1965. It is stated that the applicant was trapped in a conspiracy and was pressurised to admit the guilt instead of submitting any defence thereby he tendered a letter for apology and requested to take him on duty but the same was treated as admission and the applicant was dismissed from service vide order dated 18.7.84. It is also stated that the case was also reported to the police and after investigation, the police had also filed charge sheet against the applicant in the Court of Additional Chief Judicial Magistrate No.1, Alwar registered as Criminal Case No.37/185 under Sec.409, 467 and 468 IPC but the applicant was acquitted vide judgment dated 19.4.93 in the absence of any evidence against the applicant. It is stated that the applicant never admitted the guilt, therefore, dismissal of the applicant on the basis of such statement is illegal and liable to be quashed and set aside and the applicant is entitled to be reinstated in service forthwith, with all consequential benefits. Therefore the applicant filed this O.A for the relief as above.

5. Reply was filed. It is stated in the reply that the applicant was dismissed from service after giving him charge sheet under Rule 14 of CCS(CCA) Rules, 1965, after following the prescribed procedure. The applicant was given full opportunity to defend. The applicant misappropriated an amount of Rs.1272/- the amount of money-orders and no pressure of any kind was put upon him. It is denied that the applicant was induced and allured for making a confession and tendering apology. It is admitted that the applicant was acquitted in the criminal case pending before the Addl.Chief Judicial Magistrate, Alwar after criminal trial but there is no bar to proceed with departmental enquiry and the



applicant was rightly dismissed from service on the basis of his admission of the guilt. It is denied that the disciplinary authority has passed the order of dismissal from service relying on extraneous matter. It is stated that since the applicant himself admitted the charges there was no need of any further enquiry. The applicant was dismissed from service after following the rules/procedures meant for departmental enquiries. Therefore, the applicant has no case for interference by this Tribunal and this O.A devoid of any merit is liable to be dismissed.

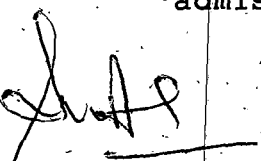
6. Rejoinder has also been filed reiterating the facts stated in the O.A which is on record.

7. Heard the learned counsel for the parties and also perused the whole record.

8. The learned counsel for the applicant argued that dismissal of the applicant on the basis of the letter purporting to be the admission of guilt by the applicant is altogether illegal. No enquiry whatsoever was conducted in this case and the services of the applicant was dismissed without affording him an opportunity to show cause. On the other hand, the learned counsel for the respondents argued that the applicant admitted the charge, therefore, no enquiry was necessary and no opportunity to show cause was required before passing the order of dismissal.

9. We have given anxious consideration to the rival contentions of both the parties and also perused the whole record.

10. The word 'admission' has not been defined in CCS(CCA) Rules and the ED Agents (Conduct & Service) Rules, 1964 but Sec.17 of the Indian Evidence Act, defines the word 'admission' as under:



An admission is a statement, oral or documentary, which suggests any reference as to any fact in issue or relevant fact, and which is made by any of the persons, and under the circumstances, hereinafter mentioned."

11. According to this definition of word admission, in order to hold the admission as conclusive against the maker it must be established that such admission is clear and unequivocal, precise and not vague or ambiguous. If the admission is capable of two interpretations, then interpretation favourable to the person making it shall be given weightage. Therefore, every such admission must be given plain, liberal and fair meaning.

12. In departmental enquiries, admission of guilt by a government servant can be used only to corroborate independent evidence led to prove the charges against the delinquent.

13. In Jagdish Prasad Saxena Vs. State of M.P., AIR 1961 SC 1070, Hon'ble Supreme Court held as under:

"(a) If statement made by the accused do not amount to a clear or unambiguous admission of guilt, failure to hold a formal enquiry would be a fatal infirmity in any order of punishment based on such admission.

(b) Admission not made specifically in reply to a charge-sheet, cannot be taken into account for penalising a government servant without formal enquiry giving a reasonable opportunity to the accused to explain his so called admission.

(c) Even if the appellant had made some statement which amounted to admission, it is open to doubt

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whether he could be removed from service on the strength of the said alleged admissions without holding a formal enquiry as required by the rules."

14. In T.Narayanan Vs. Dy.Chief Mechanical Engineer Carriage & Wagon Works, Madras & Ors, 1999(1) ATJ 403, it was held by Madras Bench of the Tribunal that if an employee has admitted the charge it is incumbent on the part of the authorities to prove the charge by placing a material before the enquiry officer and examine the witness on the side of their part.

15. In Poonam Chand Vs. UOI & Ors, (1996) 34 ATC 30, the Jodhpur Bench of the Tribunal held that the applicant charged for unauthorised absence which resulted in dislocation of work. The applicant stated to have deposed before the enquiry officer that he remained absent on account of certain family circumstances and also requested for a change of duty. Held on facts, applicant's statement was not admission of charge framed against him.

16. In O.A No.33/98, Suraj Bhan Vs. UOI & Ors decided on 23.4.2001 and O.A No.115/99 Om Prakash Yadav Vs. UOI & Ors, decided on 23.4.2001, this Tribunal held that it was incumbent on the part of the authorities to prove the charge by placing material before the enquiry officer and examine the witnesses.

17. In their reply, the respondents have stated that the applicant only admitted charge No.1 and charge No.2 is counter part of charge No.1. On the basis of the reply filed by the applicant it ^{is} ~~does~~ not clear that the applicant has admitted all the charges.

18. In order to hold the applicant guilty of the charges on the basis of his admission, it must be established that

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such admission is very clear, unequivocal, precise and not vague or ambiguous. If the admission is capable of two interpretations then interpretation favourable to the person making it shall be given weightage. Therefore, admission in such situation must be plain, liberal and fair meaning.

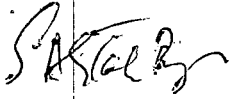
19. On the basis of settled legal positions as above, it appears that the departmental enquiries admission of guilt by a government servant can be used only to corroborate independent evidence led to prove to the charge against the applicant. In the instant case, we find that no enquiry officer was appointed, no enquiry of any kind was conducted, no evidence was recorded and the letter purporting to be admission of the applicant does not establish the fact that it was plain, unequivocal, precise and unambiguous admission by the applicant.

20. Therefore, we are of the considered view that in such situation the only alternative with us is to quash the order of the disciplinary authority by which the applicant was dismissed from service and order passed in revision petition rejecting the petition filed by the applicant.

21. We, therefore, allow this O.A and quash and set aside the orders Annx.A1 dated 18.7.84 and Annx.A2 dated 26.6.95 and direct the respondents to reinstate the applicant in service forthwith, with all consequential benefits. The respondents are at liberty to hold the departmental enquiry against the applicant and thereafter to pass appropriate orders. The whole exercise shall be completed within 6 months from the date of receipt of a copy of this order.

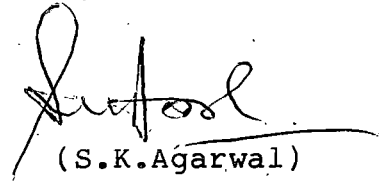
[Signature]

22. No order as to costs.



(S.A.T. Rizvi)

Member (A).



(S.K. Agarwal)

Member (J).