

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR

Date of order : 01.01.2002

O.A. No. 49/1997

Badri Prasad Sharma son of Shri S.B. Sharma aged around 55 years resident of 141, Avadhupuri-II, Mahesh Nagar, Jaipur, presently working as Assistant Audit Officer, A.G. II (Audit), Rajasthan, Jaipur.

... Applicant.

v e r s u s

1. Union of India through Secretary, Ministry of Finance, Government of India, New Delhi.
2. The Accountant General, Rajasthan, Jaipur.
3. The Dy. Comptroller and Auditor General of India, 10, Bahadur Shah Zafar Marg, New Delhi.

... Respondents.

Mr. R.P. Sharma, Counsel for the applicant.

Mr. R.L. Agarwal, Adv., Brief holder for Mr. Bhanwar Bagri, Counsel for the respondents.

CORAM:

Hon'ble Mr. Justice O.P. Garg, Vice Chairman
Hon'ble Mr. Gopal Singh, Administrative Member

: O R D E R :

(Per Hon'ble Mr. Justice O.P. Garg)

The applicant Shri Badri Prasad Sharma, who is an Assistant Audit Officer in the office of the Accountant General (Audit-II) Rajasthan, Jaipur, has gone for audit with effect from 22.11.1988 to 02.12.1988 in Dhariawad Tehsil office, District Udaipur. He preferred a claim for travelling allowance and charged higher rate

for stay at private place holding it out to be a registered/licenced boarding and lodging establishment. Subsequently, it transpired that the claim preferred by the applicant was fake. A departmental enquiry was initiated against the applicant. The following charges were framed.

" Shri Badri Prasad Sharma, Assistant Audit Officer, Office of the Accountant General (Audit-II), Rajasthan was assigned the local audit of Land Revenue Receipts as a member of SRA Party No. 22 during November-December, 1988. The party was entrusted with the audit of the Tehsil Office, Dhariawad, from November 22 to December 2, 1988. In his travelling allowance claim for the months of November, 1988 and December, 1988, preferred in December 1988, Shri Badri Prasad Sharma had claimed, inter alia, Daily Allowance under SR 51 at the higher rates applicable to stay in a registered hotel at Dhariawad from November 22 to December 2, 1988 (11 days). In support of this claim, Shri Sharma had submitted a receipt (No. 11 dated December 2, 1988) for Rs. 440/- (Rupees Four Hundred and Forty only) purported to have been issued by Gordhan Niwas Lodging & Boarding, Bus Stand, Dhariawad, in token of having paid room rent at Rs. 40/- per day for 11 days. On the claim being admitted by the competent authority, payment was made by cheque through the State Bank of India, N.C.R.B, Jaipur, in January, 1989.

2. It transpired subsequently that, the Rajasthan Shops and Commercial Establishment Act, 1958, governing, inter alia, the registration of hotels, not having been made applicable to Dhariawad by the State Government, the hotel (Gordhan Niwas Lodging & Boarding) was not a registered establishment and the higher rate of Daily Allowance under SR 51 would consequently not be admissible. The counterfoil of the cash receipt stated to have been issued by the said hotel did not also contain any registration number, whereas a registration number (23/87) had been entered in ink on the original of the receipt attached to the Travelling Allowance claim by Shri Sharma. This handwritten entry of the registration number was a subsequent interpolation resorted to by Shri Sharma, either single or collusively, with the intention of establishing that he had stayed only in an establishment registered as a hotel and claiming the higher rate of Daily Allowance under SR 51.

3. Further enquiries had also revealed the following:

- (a) Shri Badri Prasad Sharma had stayed in the said hotel only for one day on November 22, 1988, and no rent was paid by him even for that day.
- (b) The said hotel had no room for which a rent of more than Rs. 20/- per day was applicable.
- (c) The said hotel not being a registered one, its Manager had initially refused to give any receipt, but a receipt book was managed to be got printed by Shri Badri Prasad Sharma himself or by his colleagues in the Local Audit Party and filled in by one of them, and the Manager had been asked to sign the receipt.

4. Shri Badri Prasad Sharma had, therefore, preferred a false Travelling Allowance Claim by (a) manipulation and falsification of the supporting documents, and (b) falsely claiming to have paid rent for 11 days at a rate higher than the tariff charged by the hotel, so as to derive an unjustified pecuniary advantage. Shri Badri Prasad Sharma, Assistant Audit Officer, in the circumstances, not only failed to maintain absolute integrity at all times, but also acted in a manner most unbecoming of a Government Servant in contravention of Rules 3(1)(i) and 3(1)(iii) of the Central Civil Services (Conduct) Rules, 1964."

The enquiry officer found the applicant guilty of the aforesaid charges. Agreeing with the report of the enquiry officer, the disciplinary authority inflicted the punishment of reduction of pay by three stages from Rs. 2975/- to Rs. 2750/- for the period from 01.12.94 to 30.09.99 without cumulative effect. The applicant preferred a departmental appeal. The order of punishment passed by the disciplinary authority was upheld and affirmed. It is, in these circumstances, that the applicant has come forward before this Tribunal by moving the O.A. under Section 19 of the Administrative Tribunals Act, 1985. It is prayed that the order of punishment be quashed as the mandatory provisions with regard to departmental enquiry have been flouted with all impunity and the principles of natural justice violated. The official respondents have filed a reply.

2. Heard Mr. R.P. Sharma, learned counsel for the applicant and Shri R.L. Agarwal, holding brief for Mr. Bhanwar Bagri, learned counsel for the respondents, at considerable length and perused the materials brought on record.

3. Learned counsel for the applicant assailed the enquiry proceedings on variety of grounds. It was urged that the key witnesses were not examined and the materials on the basis of which conclusions were arrived at was not put to the applicant. It was also maintained that the enquiry officer did not allow the applicant

to examine himself and to lead the evidence in defence.

4. We have perused the elaborate report of enquiry and the orders passed by the disciplinary authority and the appellate authority and find that the enquiry is not vitiated in any manner as it cannot be legally faulted. The moot point for our consideration was whether the applicant who was a responsible official associated with the audit of the Tehsil Office, Dhariavad, District Udaipur, had preferred fake and fictitious claim. It is accepted at all hands that if the place where the applicant had at all stayed was not registered or licenced for lodging and boarding purpose, he could not have claimed the benefit of higher charges. In the instant case, it has been fully established that Gordhan Niwas Lodging & Boarding at Dhariavad Tehsil was not a registered and licenced place and, therefore, the claim of the applicant for higher charges for staying there was fake. Not only this, the applicant had interpolated the receipt by incorporating the false registration number therein. The charges against the applicant were serious enough to justify the order of punishment which is quite moderate and reasonable.

5. The jurisdiction of this Tribunal in the matters of departmental enquiry is quite limited. The factual matrix of the case cannot be gauged by it. As stated above, we do not find any procedural irregularity in the conduct of the enquiry. The order of punishment has been passed by the competent disciplinary authority. The applicant too has been heard and decided by the authority competent to hear the appeal. In these circumstances, we are not inclined to interfere in the matter of punishment inflicted on the applicant after due departmental enquiry.



6. In the result, the original application turns out to be devoid of any merit and substance and is accordingly dismissed. No order as to costs.

(Gopal Singh)

(GOPAL SINGH)

Adm. Member

O.P.Garg

(JUSTICE O.P. GARG)

Vice Chairman

CVR.