

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH

CIRCUIT BENCH AT GWALIOR

Original Application No. 680 of 2002

Gwalior, this the 24th day of February, 2004

Hon'ble Shri M.P. Singh, Vice Chairman  
Hon'ble Shri G. Shanthappa, Judicial Member

Narendra Singh Mohovia, S/o.  
L/Shri Brijnarayan Lal Mahovia,  
Aged - 59 years, Occupation - Senior  
Accounts Officer, O/o. the Accountant  
General (A&E) II, M.P. Gwalior  
(M.P.), R/o. H-2 Chetakpuri, Lashkar,  
Distt. Gwalior (M.P.).

... Applicant

(By Advocate - Shri S. C. Sharma)

V e r s u s

1. The Chief Controller & Auditor General, 10, Bahadur Shah Jafar Marg, New Delhi.
2. The Deputy Comptroller & Auditor General of India, 10 Bahadur Shah Zafar Marg, New Delhi.
3. The Accountant General (A&E), MP Gwalior (M.P.).
4. The Accountant General (A&E) II MP, Gwalior (M.P.).

... Respondents

(By Advocate - Shri M. Rao)

O R D E R (Oral)

By M.P. Singh, Vice Chairman -

By filing this Original Application the applicant has claimed the following main reliefs :

"(A) That, the charge sheet (Annexure A-8) and the entire proceedings of enquiry may kindly be declared as illegal, arbitrary, malafide being in violation of Art. 14 of Constitution and the CCS (CCA) Rules, 1965 and against the principles of natural justice.

(B) That the order of punishment contained in Annexure A-26 and the appellate order Annexure A-29 may kindly be quashed being based on illegal charge sheet and inquiry proceedings/report."

2. The brief facts of the case as stated by the applicant are that the applicant was working as Senior Accounts Officer with effect from 1st April, 1992. The applicant has

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been sent on deputation in Audyogik Kendra Vikas Nigam (B) Ltd. Bhopal and remained in that post for the period from 2nd September, 1995 to 30th June, 1998. During the period when the applicant was performing the duties in Audyogik Kendra Vikas Nigam (B) Ltd. Bhopal, he <sup>had</sup> written a letter dated 27th June, 1998 to the Chief Minister of Madhya Pradesh (because he was Chairman of Audyogik Kendra Vikas Nigam), to send his consent for extension of his deputation period up to 31st August, 1999. Earlier the applicant has submitted his application dated 23rd December, 1997 to the Managing Director, Audyogik Kendra Vikas Nigam requesting him to send the consent for extension to the AGMP, Gwalior so that he may extend the period of deputation.

2.1. The respondents have issued a charge sheet to the applicant to conduct the enquiry under Rule 14 of the CCS (CCA) Rules. The charges levelled against the applicant <sup>are</sup> as follows :

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अनुच्छेद-५६

लोकनायक

यह कि उक्त श्री एन. एस. महोविया वरिष्ठ लेखा अधिकारी महालेखाकार (लेखा एवं हक्कारी)-द्वितीय म.प्र. गवालियर ने म.प्र. औद्योगिक केन्द्र विकास निगम मर्यादित भोपाल में लेखा अधिकारी के पद पर अपनी प्रतिनियुक्ति पदस्थापना के दौरान यह कदाचार किया कि उक्त श्री एन.एस. महोविया ने गुरुवा शनी म.प्र. शासन भोपाल को रवां की प्रतिनियुक्ति अधिक दिन 31-08-2000 तक बढ़ाने वा अनुरोध करते हुए दिन 27-06-98 को सीधे पत्र लिखा। जबकि उनके प्रतिनियुक्ति के प्रत्यावर्त्तन सम्बंधी आवेश दिन 26-06-98 को ही म.प्र. औद्योगिक बैन्ड विकास निगम मर्यादित भोपाल द्वारा जारी कर दिये थे। यह कि शासकीय कर्मचारी/अधिकारी द्वारा अपने हित में राजनीतिक दबाव लाना अथवा प्रयास करना कदाचरण है।

यह कि उक्त श्री एन.एस. महोविया का उपरोक्त कृत्य एक शासकीय सेवक होने के नाते अशोभनीय एवं अनुशासनहीनता है।

अनुच्छेद संख्या:-

यह कि उक्त श्री एन. एस. महोविया वरिष्ठ लेखा अधिकारी कार्यालय महालेखाकार (लेखा एवं हक्कारी)-द्वितीय मध्यप्रदेश गवालियर ने म.प्र. औद्योगिक केन्द्र विकास निगम मर्यादित भोपाल में लेखा अधिकारी पद पर अपनी प्रतिनियुक्ति पदस्थापना के दौरान यह कदाचार किया कि उक्त श्री एन.एस. महोविया ने उप-महालेखाकार (प्रशासन) कार्यालय महालेखाकार (लेखा एवं हक्कारी)-प्रथम मध्यप्रदेश गवालियर को प्रस्तुत अपने स्पष्टीकरण दिन 17-08-98 द्वारा यह मिथ्या कथन किया कि उन्होंने उक्त निगम के कार्यमुक्ति आवेश के पालन में दिन 30-06-98 को अपना कार्यभार निगम के अधिकारी श्री भार्गव को सौंप दिया था। जबकि प्रबंध संचालक, मध्यप्रदेश औद्योगिक केन्द्र विकास निगम भोपाल के पत्र दिन 16-10-98 के संलग्न प्रस्तुत प्रतिवेदन अनुसार उक्त श्री महोविया बिना कार्य प्रभार सौंपे ही कार्यालय से चले गए थे एवं 5:30 बजे सौंप तक कार्यालय वापस नहीं आए। इस प्रकार उक्त श्री महोविया ने अपने प्रैत्रिक विभाग के उच्चाधिकारियों वर्गे मिथ्या जानकारी प्रस्तुत कर गुमराह करने का प्रयत्न किया।

यह पि. उक्त श्री एन. एस. महोविया वा उक्त गुरुवे एवं शारांशीय रेप्रेन्टेटर नाते अशोभनीय एवं अनुशासनहीनता है एवं उक्तानुगार सत्यनिष्ठा की कर्मा प्रवर्शित वी

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यह कि उवत श्री एन.एस. महोद्धिया वरिष्ठ लेखा अधिकारी कार्यालय महालेखाकार (लेखा एवं हकदारी)-द्वितीय म.प्र. रवालियर ने म.प्र. ओघोर्गिक केन्द्र विकास निगम मर्यादित भोपाल में लेखा अधिकारी पद पर अपनी प्रतिनियुक्ति पदस्थापना की अवधि में यह कदाचार किया कि उवत निगम के आदेश दिनांक 26-06-98 द्वारा उन्हें दिनांक 30-06-98 अपरान्ह से प्रतिक विभाग में कार्यग्रहण करने से बेतु कार्यपुष्टि आदेश प्रसारित किए गए थे लैकिन उवत श्री महोद्धिया दिनांक 30-06-98 को उपत निगम कार्यालय में पूर्ण दिवस में 11.30 बजे से 11.45 बजे तक शात्रु 15 मिनट ही उपस्थित रहे एवं कार्यालय से जाने उपरक्ष कार्यालय बंद रहे (राय 5.30 बजे तक) पार्यालय नहीं आए। उनकी उपस्थिति बाबत उवत निगम कार्यालय द्वारा श्री महोद्धिया के नियास पर दूरभाष द्वारा गम्भक किए जाने पर श्री महोद्धिया के परिवार जनों ने कोई जानकारी प्राप्त नहीं की। इस प्रकार श्री महोद्धिया दिनांक 30-06-98 को अपने उत्कर्षों से विना किसी पूर्ण रूपना, अनुगति अथवा अवकाश स्वीकृत कराये अनाधिकृत रूप से अनुपस्थित रहे।

यह कि उपत श्री एन.एस. महोद्धिया, वरिष्ठ लेखा अधिकारी का उवत कृत्य एक शासकीय सेवक होने के नाते अशोभनीय एवं अनुशासनहीनता है।

अनुच्छेद-चार:-

यह कि उवत श्री एन.एस. महोद्धिया, वरिष्ठ लेखा अधिकारी कार्यालय महालेखाकार (लेखा एवं हकदारी)-द्वितीय म.प्र. रवालियर ने म.प्र. ओघोर्गिक केन्द्र विकास निगम मर्यादित भोपाल में अपनी प्रतिनियुक्ति पदस्थापना अवधि में यह कदाचार किया कि प्रथम संचालक म.प्र. ओघोर्गिक केन्द्र विकास निगम मर्यादित भोपाल के कार्यपुष्टि आदेश दिनांक 26-06-98 के निर्वशानुसार अपना कार्य प्रभार श्री एन.बी. भारद्वा, गहाप्रबंधन, को दिनांक 30-06-98 को नहीं सौंपा। उवत पूर्ण दिवस में गत्र 15 मिनट कार्यालय आवर उपत श्री महोद्धिया विना किसी पूर्ण सूचना एवं अनुगति के उवत निगम कार्यालय से चले गए एवं कार्यालयीन राय 5.30 बजे तक वापस लौटकर नहीं पहुँचे। इस प्रकार उन्होंने अपने उच्चाधिकारियों के आदेशों की अवज्ञा की।

यह कि उवत श्री एन.एस. महोद्धिया का उवत कृत्य एक शासकीय रेषक होने के नाते अशोभनीय, अनुशासनहीनता राया उच्चाधिकारियों के आदेशों की अपशा है।

2.2. The enquiry officer has conducted the enquiry and he has concluded the enquiry holding that the charges have been proved. The findings of the enquiry officer has been sent to the applicant and the applicant has submitted his representation on 19th March, 2001. The disciplinary authority after taking into consideration the representation of the applicant, finding of the enquiry officer and other materials on record imposed the penalty of stoppage of one increment for one year without cumulative effect on the applicant. The applicant has filed an appeal against the order of the disciplinary authority on 9th

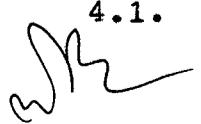


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May, 2001. The appellate authority vide order dated 26th April, 2002 has rejected the appeal of the applicant.

3. The respondents in their reply have stated that the applicant had worked on deputation as Account Officer in the office of the Audyogik Kendra Vikas Nigam (B) Ltd. Bhopal. The respondents informed the borrowing department vide letter dated 18th June, 1998 to repatriate the applicant. In pursuance whereof the borrowing department issued order dated 28th June, 1998 for relieving the applicant in the afternoon of 30th June, 1998. A copy of this order was endorsed to the applicant asking him to hand over the charge to one Shri N.P. Bhargava, General Manager by 30th June, 1998. The applicant was not willing to leave the organization and he wrote a letter to the Chief Minister of Madhya Pradesh on 27th June, 1998 for his further retention in the said organisation. Thereafter during a personal discussion with the Managing Director on 29th June, 1998 the applicant tried to ascertain from the letter that if he brings pressure from the Chief Minister of Madhya Pradesh, then whether the Managing Director would retain the applicant further or not. The Managing Director vide DO letter dated 2nd July, 1998 apprised the factual position to the <sup>to the Chief Minister &</sup> Secretary that the applicant has been relieved on 30th June, 1998 in pursuance of letter dated 18th June, 1998 of the lending authority.

4.1. On the other hand, the applicant on the



stipulated date of his relieving did not attend the borrowing office for the whole day. He wrote letter to the Chief Minister and he had attempted to bring political pressure for his further retention on deputation in Audyogik Kendra Vikas Nigam (B) Ltd. Bhopal. He gave false statement in his explanation that he has come after handing over the charge and he remained absent on 30.6.1998 from borrowing office except his attendance for 15 minutes only between 11.30 AM to 11.45 AM and he had defied the orders of borrowing authority by not handing over the charge. The applicant even did not return the keys of the office almirah to the borrowing authority. Thereafter the applicant was not available and this act of the applicant was reported to the ~~borrowing~~ department by the Managing Director. The applicant was asked to explain the above mentioned facts. The applicant thereafter was served with a charged sheet on 20th May 1999 under Rule 14 of CCS (CCA) Rules. A detailed enquiry was instituted on 25th August, 1999 to enquire into the charges. The applicant participated in the enquiry and was given full opportunity to defend his case. The ~~applicant was deprived of the documents~~ <sup>charges were proposed to be sustained by</sup> alone and therefore no list of witnesses was attached with the charge sheet. However some additional documents were not allowed by the enquiry officer, as the arguments put forward in regard to the relevancy of these documents were found unsustainable. Non-submission

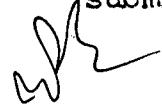


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of the brief by the presenting officer, however, did not in any way prejudiced the rights of the applicant. The applicant did not challenge the authenticity of the listed documents and no prosecution witness was produced and examined during the enquiry. The defence also did not examine any defence witnesses. The charges were held proved. The finding of the enquiry officer was forwarded to the applicant and there upon he submitted his representation. The disciplinary authority after careful consideration of the facts of the facts of the case imposed the penalty of withholding of his next increment for one year without cumulative effect. The appellate authority has also upheld the punishment imposed by the disciplinary authority. The respondents have stated that during personal hearing the applicant has admitted that he did not hand over the charge. He has also admitted the fact during the enquiry that he had written a letter direct to the Chief Minister of Madhya Pradesh and therefore he had committed a mistake which may kindly be forgiven. He has also stated that <sup>it at</sup> this he has done <sup>in</sup> the behest of the Deputy Secretary.

5. Heard the learned counsel for the parties and perused the records carefully.

6. The learned counsel for the applicant has submitted that an enquiry was instituted against the



applicant under Rule 14 of the CCS (CCA) Rules. According to him, the respondents have not followed the laid down procedure. He has submitted that the applicant demanded for certain documents. The enquiry officer has held that the documents are relevant and should be given to the applicant. Further these documents were not given by the disciplinary authority to the applicant to defend himself during the enquiry proceedings, on the ground that these documents were not relevant. In the absence of these documents the applicant has been denied the principles of natural justice. He has also submitted that although the charge sheet has been issued to the applicant for imposing the major penalty ~~whereas~~ <sup>but</sup> only minor penalty has been imposed against him. This is against the rules.

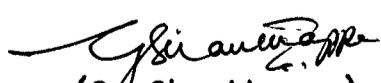
7. On the other hand the learned counsel for the respondents has stated that the applicant has violated the rules by writing a letter directly to the Chief Minister and he has also admitted the fact that the letter addressed to the Chief Minister has been written by him. Therefore no witnesses are required to prove the documents or to establish the authenticity of the document. He has further submitted that although the applicant has been issued <sup>with</sup> the charge sheet of major penalty but by following the procedure for minor penalty, no prejudice has been caused to the applicant while following the procedure under Rule 14 of CCS (CCA) Rules. The applicant has failed to establish that some prejudice has been caused to him.

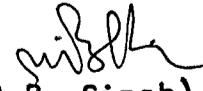
8. We have carefully considered the rival contentions of the parties. We find that the applicant while working on deputation in Audyogik Kendra Vikas Nigam (B) Ltd. Bhopal, has committed misconduct bringing political pressure for getting extension of his deputation period.



He has therefore been charge sheeted for violation of the conduct rules by the respondents. Although the enquiry has been held under Rule 14 of the CCS(CCA) Rules to impose major penalty on the applicant, he has been imposed only the minor penalty. The applicant himself has admitted these guilt of misconduct that the letter for his extension of deputation period has been written by him. During the enquiry he has stated that this has been done by him at the behest of the Deputy Secretary concerned. We do not find any wrong with the action of the respondents for initiating the departmental proceedings for major penalty and ultimately imposing only the minor penalty. Since the applicant has himself admitted the charges no further enquiry was required to be held against the applicant. We also find that no prejudice has been caused by non-supply of certain documents demanded by the applicant and as ordered by the enquiry officer. The respondents have followed the laid down procedure. The findings of the enquiry officer has been sent to the applicant and thus the opportunity of hearing has been given and the principles of natural justice have <sup>not</sup> <sub>been</sub> violated. The charges against the applicant has been held proved. It is settled legal position that this Tribunal cannot re-appreciate the evidence and also cannot go into the quantum of punishment.

9. For the reasons recorded above we do not find any infirmity with the order passed by the disciplinary authority and the appellate authority. Therefore the Original Application does not merit any consideration and is accordingly dismissed. No costs.

  
(G. Shanthappa)  
Judicial Member

  
(M.P. Singh)  
Vice Chairman