

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH: HYDERABAD**

**OA/21/458/2017**

**Reserved on: 05.04.2019  
Order pronounced on: 08.04.2019**

Between:

O. Praveen Kumar,  
S/o. O. Kashaiah,  
Aged about 32 years,  
Working as Plane Tabler, Gr.II,  
O/o. The Director, Andhra Pradesh  
GEO-Spatial Data Centre,  
Uppal, Hyderabad – 500 039.

...Applicant

**And**

1. The Union of India rep. by  
The Surveyor General of India,  
Dehradun – 248 001,  
Uttarakhand State.
2. The Additional Surveyor General,  
Southern Zone, Sarjapur Road,  
Koramangala, 2<sup>nd</sup> Block,  
Bangalore – 560 034,  
Karnataka State.
3. The Director,  
The Andhra Pradesh Geo-Spatial Data Centre,  
Uppal, Hyderabad – 500 039.

...Respondents

Counsel for the Applicant ... Mrs. Rachna Kumari  
Counsel for the Respondents ... Mr. V. Vinod Kumar, Sr. CGSC

***CORAM:***

***Hon'ble Mr. B.V. Sudhakar*** ... ***Member (Admn.)***

***ORDER***

***{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.)}***

2. OA is filed challenging the recovery of Rs 1,20,000 from the applicant.

3. Applicant, while working as Plane Tabler Grade II, in the respondent organisation, was given a movement order to go over to Machilipatnam in order to relieve Mr. Kuntia, who was working in the team surveying the coastal area. Applicant joined the team on 21.10.2011 and started the levelling work. Applicant's version is that the digital levelling machine was under the custody of the surveyor. On 16.10.2011, when the levelling machine was missing, a police complaint was lodged by the surveyor. Police, after due investigation, have reported on 8.2.2012 that the machine is undetectable. A Fact Finding Committee constituted to investigate the matter has submitted its report on 22.12.2011. Consequent to the loss incurred, 3<sup>rd</sup> respondent issued memo dt 12/13.03.2013 directing the applicant to credit a sum of Rs 1,20,000 in 40 equated instalments @ Rs 3000 per month. Applicant made several representations against the same but without heeding to his pleas, recovery was ordered from the month of April 2013. Applicant approached the Tribunal in OA 607/2013 wherein recovery was stayed and it was directed to conduct a regular inquiry in accordance with law. According to the applicant, Inquiry was conducted and inquiry report was submitted without furnishing the relevant documents and not producing the witness stated in the charge sheet. Disciplinary authority imposed the penalty of recovery of Rs 1,20,000 on 18.3.2016 towards loss of two levelling machine. On appeal, Appellate authority on 7.6.2016 has set aside the punishment and directed the disciplinary authority to conduct the inquiry from the stage of supply of documents, call witnesses cited in the charge sheet and provide personal hearing to the applicant in the presence of a Gazetted officer. Accordingly fresh inquiry was instituted and ex-parte proceedings were

issued on 21.9.2016 concluding that the inquiry report submitted by the inquiry authority on 30.12.2015 is final, as applicant did not appear on certain dates called for. Based on the report the 3<sup>rd</sup> respondent has imposed the penalty of recovery of Rs 1,20,000 on 10.2.2017 which was upheld by the Appellate Authority on 19.5.2017. Aggrieved the OA has been filed.

4. The contentions of the applicant are that the committee did not find fault with the applicant and highlighted the guidelines in THB chapter II para 22. The surveyor Mr Omkar Swamy has accepted that the equipment was kept in the open corridor. Camp officer Mr. P.D. Kumar was never investigated. Staff were not instructed in regard to the safety measures to be adopted. Even the police has not found the applicant to be at fault. The disciplinary authority Sri Ch Venkateswar Rao, Supdt. Surveyor and Mr Ramesh Goud, office surveyor, who were the chairman and member of the fact finding committee respectively have been cited as witness against law. Personal hearing in the presence of a Gazetted officer was not afforded. Documents sought have not been furnished.

5. Respondents per contra, state that the fact finding committee after inquiring into the matter has advised fixing responsibility on the concerned detachment officers for loss of Govt. property. Based on the said report, Surveyor General of India has ordered recovery of the book value of the equipment from the applicant and Mr K.Omkar Swamy. Being aggrieved applicant approached the Tribunal. As per the orders of the Tribunal, inquiry was conducted and the disciplinary authority imposed the penalty of recovery of Rs 1,20,000 which was set aside by the Appellate authority directing a fresh inquiry to be conducted. Accordingly fresh inquiry was conducted and the penalty of recovery of Rs

1,20,000 was imposed by the Disciplinary authority which was upheld by the Appellate Authority.

6. Respondents contend that the applicant during the re-inquiry was advised by the inquiry officer to furnish the documents required with their relevance but the applicant did not furnish the list of documents required. Despite several notices applicant did not submit the name of the defence assistant to defend him in the case. Applicant did not attend the inquiry on 15.9.2016 and 21.9.2016 even though the applicant was cautioned by the inquiry officer that the inquiry proceedings will be issued ex-parte if he did not attend the inquiry on 21.9.2016. Applicant did not attend despite such a direction and hence the inquiry officer submitted a report stating that there is no change in the findings of the inquiry as was submitted on 30.12.2015. Disciplinary authority keeping in view the inquiry report and the reply of the applicant imposed the penalty of recovery of Rs 1,20,000 which was upheld by the Appellate Authority. The other employee Mr K.Omkar Swamy from whom similar amount was ordered to be recovered the entire amount was recovered by August 2017.

7. Heard both the counsel and perused the documents plus the material papers submitted.

8. I) The issue is about loss of a digital levelling machine and the applicant was ordered to pay a sum of Rs 1,20,000 towards the loss, as the respondents found him responsible after due disciplinary process. Applicant claimed that he did not take charge of the equipment since he joined the surveying team at Machilipatnam after some time to relieve Mr Kuntia who was proceeding on

leave. Respondents submitted the document dated 1.11.2011 where in it is shown at sl.13 that one pair of the digital level machine was taken over by the applicant from Mr Kuntia along with other equipment. The document was duly signed by the applicant and Mr Kutia in token of transfer of the equipment from Mr Kunti to the applicant. Therefore, the stand of the applicant that he did not take charge of the equipment is incorrect. Learned counsel for the applicant raised an objection that this document was not submitted during the inquiry. In this regard, when we trace the history of the case, it is seen that the applicant when proceeded initially and imposed the penalty of recovery of Rs 1,20,000, appellate authority has set aside the order of penalty on 7.6.2016 directing fresh inquiry. During the fresh inquiry, inquiry officer has asked the applicant to state the documents he desires to be furnished with relevance and also to appoint a defence asst to help him in the case. However, the applicant did not indicate the documents required nor did he nominate a defence assistant. It was an opportunity for the applicant to raise the technical objections during the inquiry which he raised in the OA. This Tribunal has also directed the applicant to cooperate during the inquiry while disposing OA 607 of 2013 on 3.6.2015. Instead the applicant was observed to be adopting dilatory tactics as seen from the objections raised during the fresh inquiry. The learned counsel for the respondents has submitted a statement across the bar on the final hearing date, which depicts the dates on which the inquiry was held and the remarks thereof. From the averments made by the applicant it is evident that he was not cooperating with the inquiry authority as advised by the Tribunal. Applicant claimed that the disciplinary authority Sri Venkateswar Rao, Supdt. Surveyor, who

was the chairman of the fact finding committee was cited as witness in the charge sheet. However, the records indicate that the disciplinary proceedings were signed by Sri U.N. Gurjar, Dy. Surveyor General and P.V.Sreenivas, Director on 18.3.2016 and 10.2.2017 respectively but not by Sri venkateswar rao. Hence the submission of the applicant in this regard is not true. Nevertheless, the fresh inquiry instituted could have been the forum for him to clear himself of the charges levelled. Applicant frittered away the opportunity by using it to prove that he was not fault but he raised objections with the purpose of delaying the inquiry. Respondents cannot be held responsible for the same. Applicant was also not attending the inquiry despite being cautioned that his non attendance will lead to ex-parte proceedings. As the applicant did not heed the advice of the Inquiry officer, the only option left open to the inquiry officer was to decide the case ex-parte as per rule 20 of the CCS (CCA) rules. Further, the rule quoted by the applicant in regard to safeguarding the equipment is when they camp in open area and in forests etc and not when they stay in hotels. Admittedly, applicant was to safeguard the equipment which was handed over to him. It was kept in the hotel corridor because it could not be kept inside the room. Applicant ought to have brought this difficulty to the notice of the camp officer so that necessary security arrangements could be made by taking up with the hotel management. Such an effort was missing. That is where the role of a committed Govt. Servant comes into play. The applicant is a responsible Govt. servant and it was his duty to take care of the equipment which was handed over to him. Not doing so is obviously failure of duty. The other employee Mr K.Omkar Swamy was also proceeded against for the same folly and the amount was recovered from him.

Applicant who was as much responsible as Mr K.Omakar Swamy, cannot escape the responsibility for the loss. Respondents organisation is a public institution and any loss to the organisation has to be recovered. It is indeed tax payer's money which is at stake and should not be, therefore forgotten. Recovery serves two purposes namely offsetting the loss and the second is to send a message to others in the organisation that they will be held accountable for their actions. In IDL Chemicals Ltd., v T.Gattaiah reported in (1995) Supp. 3 SCC 573 , the Hon'ble Supreme Court in regard to disciplinary process has observed as under:

"The penalty of stoppage of two increments simpliciter was imposed upon the appellant. He was given a charge-sheet and his explanation was called and taken into consideration. Nothing more need to be done so far as the procedure for imposing minor penalty is concerned. No fault can be found with the penalty of stoppage of two increments imposed by the Bank upon the appellant."

II) In the instant case charge sheet was issued, inquiry was conducted twice, and after considering the representations of the applicant by the disciplinary and the Appellate authorities respectively, penalty of recovery of Rs 1,20,000 was imposed. Respondents did give ample opportunities to the applicant to clear himself but he could not and there is nothing malafide noticed in the decision of the respondents.

III) Therefore, keeping the above in view, Tribunal does not find any reason to intervene on behalf of the applicant to grant the relief sought and hence the OA is dismissed with no order as to costs. The stay granted on 16.6.2017 by this Tribunal is vacated.

(B.V. SUDHAKAR)  
MEMBER (ADMN.)

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