

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

Original Application No.21/1095/2017

Date of Order: 18.12.2018

Between:

R. Arjun, S/o. Ramnath,
Aged about 44 years, Occ: Safaiwala,
O/o. Station Head Quarters,
Golkonda, Hyderabad – 500 008.

... Applicant

And

1. The Union of India, Rep. its
Secretary, Ministry of Defence,
South Block, New Delhi.
2. The Director General of Staff Duties,
SD-7 (Civ), Integrated HQ of MoD (Army),
New Delhi – 110 011.
3. The General Officer Commanding (GOC),
Head Quarters, Telangana and Andhra Sub Area,
Bolarum Post, Secunderabad – 500 010.
4. The Station Commander,
Head Quarters, Telangana and Andhra Sub Area,
Bolarum Post, Secunderabad – 500 010.
5. The Lieutenant Colonel,
1 Training Regiment, Artillery Centre,
C/o. 56 APO, Hyderabad – 500 031.

... Respondents

Counsel for the Applicant ... Mr. B. Pavan Kumar

Counsel for the Respondents ... Mr. M. Venkata Swamy, Addl. CGSC

CORAM:

***Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mrs. Naini Jayaseelan, Member (Admn.)***

ORAL ORDER
{Per Hon'ble Mr. Justice L.Narasimha Reddy, Chairman}

The applicant is working as Safaiwala in the Station Headquarters, Golconda. A charge memorandum was issued to him on 18.07.2017 alleging that he committed the offence of gross unbecoming/ misconduct of repeatedly indulging in borrowing of money at interest contrary to Rule 16(4)(i) (b) of CCS (CCA) Rules, 1965 and that he is in arrears to the tune of Rs.76,261/- which is sanctioned by CDA, Secunderabad.

2. This OA is filed challenging the charge memo and other ancillary proceedings through which inquiry officer was appointed. The grounds pleaded by the applicant are that though the charge memo is accompanied by Articles of Charges, statement of imputation, list of documents, the list of witnesses, as required under Rule 14 of CCS (CCA) Rules, is not enclosed to it. Other grounds are also urged by him.

3. The respondents filed a counter affidavit opposing the OA. It is stated that a preliminary inquiry was conducted before issuing the charge memo and because the statements of witnesses were recorded therein, no separate list was appended to the charge memo.

4. We heard Dr. A. Raghu Kumar, learned counsel for Mr. B. Pavan Kumar, counsel for the applicant and Mr. M. Venkata Swamy, learned Standing Counsel for the respondents.

5. The principal ground urged by the applicant in assailing the charge memo is that list of witnesses is not enclosed. Rule 14 of the CCS (CCA) Rules no

doubt requires that a list of witnesses shall be enclosed to the charge memo. However, the charge memo does not become illegal simply because it is not accompanied by a list of witnesses. In a given case, the disciplinary authority may choose to prove the charges without the necessity of examining witnesses. Much depends on the facts and circumstances of the case. This much, however, can be said that the department cannot examine a person as a witness unless he is shown in the list of witnesses. Even if it is assumed that the respondents did not feel the necessity of furnishing a separate list because a list was enclosed to the preliminary report, they need to be given reasonable time to decide whether or not to enclose a list of witnesses to the charge memo.

6. We, therefore, dispose of the OA directing that it shall be open to the disciplinary authority to enclose a list of witnesses within 15 days and if it does not enclose a list of witnesses to the charge memo, it shall not be entitled to examine any person as witness. There shall be no order as to costs.

(NAINI JAYASEELAN)
MEMBER (ADMN.)

(JUSTICE L. NARASIMHA REDDY)
CHAIRMAN

(Dictated in open court)
Dated, the 18th day of December, 2018

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