

**Central Administrative Tribunal
Principal Bench**

OA No. 2304/2014

Order reserved on: 14.03.2019
Order pronounced on : 20.03.2019

Hon'ble Mr. Pradeep Kumar, Member (A)

Dinesh Babu, Assistant Traffic Inspector,
Aged 61 years,
S/o Sh. Prashu Ram,
R/o AH-50, Second Floor,
Shalimar Bagh, New Delhi.

... Applicant

(By Advocate: Sh. Prashant Kumar)

Versus

Delhi Transport Corporation,
Through Chief Managing Director,
Inderprastha Estate,
New Delhi.

... Respondents

(By Advocate: Sh. Chandra Shekhar Goswami for
Sh. Karunesh Tandon)

ORDER

The applicant was working as Assistant Traffic Inspector (ATI) with respondent – Delhi Transport Corporation (DTC). He had retired on 31.08.2013 on attaining the age of superannuation.

During the year 2010, the applicant was working as ATI in Keshopur Depot, Delhi. At that time, one anonymous complaint was received by the Managing Director of DTC in which serious charges were laid against one Sh. Ashwani Bhardwaj, who was the Depot Manager and Sh. Dinesh Bhardwaj, ATI, both at Keshopur Depot. Sh. Dinesh Bhardwaj was also known as Sh. Dinesh Babu, who is the applicant in the instant case.

2. The anonymous complaint was marked by MD/DTC to Principal General Manager who in turn marked it to Regional Manager (West) and who in turn marked it to Dy. Manager (Finance). Since this was an anonymous complaint, the Dy. Manager (Finance) was directed to conduct a preliminary enquiry by calling certain employees of Keshopur Depot. Around 9 such employees were called and their statements were recorded. Based upon the same, a preliminary enquiry report was submitted on 19.05.2010 wherein following was concluded.

“In this matter it is presented that from the statements of above said all persons it appears that in fact it was happening in keshopur depot, because of which many employees had to give this anonymous complaint against Depot Manager and Sh. Dinesh Kumar ATI. Since recently said depot manager Sh. Bhardwaj has been transferred to Hari nagar from keshopur depot-3 and thereafter to Rohini Depot-3. But Sh. Dinesh Kumar ATI who is still working in Keshopur Depot so the said ATI has been transferred vide Checking West letter no. Dy.CGM(West)/10/463 dated 18.05.2010.”

3. Based upon this preliminary enquiry, a formal charge sheet was issued to the applicant on 22.07.2010. The preliminary enquiry dated 19.05.2010 was also enclosed as annexure. This indicates the name of 9 employees and the particular incidences which were relied upon.

Thereafter, another officer was appointed as an enquiry officer to enquire into the charges. The said enquiry officer called all the 9 employees and called for defence of applicant before finalising the enquiry report. The applicant gave his final defence vide his letter dated 03.07.2012. This was taken into account by the enquiry officer before he submitted his enquiry report in which the charges were held as proved.

4. Thereafter the Disciplinary Authority (DA), namely, the Regional Manager (West) issued a show cause notice dated 18.07.2012 as to why the punishment of censure should not be imposed. The applicant submitted his defence on 27.07.2012. The same was considered by the DA and the punishment of censure was imposed on 09.08.2012.

5. The applicant preferred an appeal. This was considered by the Appellate Authority (AA), namely, CGM (O) and was rejected vide orders dated 09.05.2013. This was communicated to the applicant vide letter dated 14.05.2013.

Feeling aggrieved at this rejection of appeal by the AA, the applicant had filed the instant OA wherein following relief has been sought:

“In the premises aforesaid, it is most respectfully prayed that this Hon’ble Tribunal may be pleased to set-aside the order dated 09.05.2013 communicated to the applicant vide letter dated 14.05.2013 (Annexure-‘A’) to the applicant and any other or further order/relief which this Hon’ble tribunal may deem just and proper in favour of the applicant in the facts and circumstances of the case.”

6. This OA was dismissed on account of non-prosecution by the applicant vide orders dated 29.11.2017. Thereafter the OA was restored on 07.02.2018. However, it was again dismissed on account of non-prosecution by the applicant vide orders dated 09.04.2018. It was thereafter again restored on 03.08.2018.

7. The applicant drew attention to a policy letter issued by Central Vigilance Commission (CVC) on 31.01.2002. The relevant part reads as under:

“The Commission had reviewed the instructions regarding action to be taken on anonymous/pseudonymous complaints and observed that the enabling provision in the DOPT’s orders No.321/4/91-AVD.III dated 29.09.1992 had become a convenient loophole for blackmailing and detrimentally affecting the career of public servants whose promotions/career benefits were denied owing to consequent investigation. Considering all aspects, the Commission by virtue of powers invested under para 3(v) of the Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training Resolution No.371/20/99-AVD-III dated 4th April 1999 had instructed all Govt. Deptts./Orgns., PSEs and Banks not to take action on anonymous/pseudonymous complaints. All such complaints are to be filed vide CVC’s instructions No.3(v)/99/2 dated 29th June 1999.

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3. It is hereby reiterated that, under no circumstance, should any investigation be commenced or action initiated on anonymous/pseudonymous complaints; these should invariably be filed. Any violation of this instruction will be viewed seriously by the Commission.”

8. The applicant thus pleaded that the anonymous complaint ought not to have been processed at all and accordingly, the rejection of appeal dated 09.05.2013 and its communication vide letter dated 14.05.2013, both need to be quashed.

9. The respondents opposed the OA. It was pleaded that there were anonymous complaints which related to bribery on the part of the Depot Manager and the applicant. The Depot Manager was transferred also.

The anonymous report was taken as an input and before taking any action, a preliminary investigation was conducted and when the charges laid, were coming out to be true, it was only thereafter that a formal chargesheet was issued. The enquiry officer was nominated thereafter who conducted a full fledged enquiry by calling in the witnesses and giving opportunity to the applicant to examine the witnesses. It was only as a result of this exercise that the charges were held to be proved by the enquiry officer.

The DA had thereafter issued a show cause notice to the applicant before imposing punishment. It was only thereafter that punishment of censure was imposed.

The applicant preferred an appeal. However, the same was rejected by the AA. Thus, the full procedure as due and warranted by principles of natural justice was followed. This cannot be faulted.

10. It was pleaded by applicant that the CVC letter dated 31.01.2002 prohibits any action on anonymous complaints. Respondents pleaded that this is being quoted out of context as the charge sheet was based upon a preliminary investigation conducted by the administration and not simply upon the receipt of the anonymous complaint. In view of the foregoing, the OA is required to be dismissed.

11. Matter has been heard at length. Sh. Prashant Kumar, learned counsel represented the applicant and Sh. Chandra Shekhar Goswami for Sh. Karunesh Tandon, learned counsel represented the respondents.

12. The context, in which CVC letter dated 31.01.2002 has been issued, is made very clear by the first paragraph of this letter (para 7 supra). This is with a view to stop harassment of the employees at various stages of their service and especially for those who are on the verge of promotion. It was

in this context that CVC had issued directions to file such complaints.

The circumstances of the instant case are entirely different in that the administration had issued a chargesheet only after conducting a preliminary enquiry. This course of action by the department cannot be faulted. The contentions of applicant are rejected (para 7 & 8 supra).

13. Subsequent to the issue of chargesheet, a full fledged opportunity was given to the applicant to defend himself and it was only as a result of the said enquiry, wherein many of the witnesses had corroborated the sequence of events leading to allegations of bribery, that the enquiry officer has concluded the charges as proved (para 9 supra).

Thereafter a show cause notice was also issued before imposing punishment. The applicant submitted his defence on 27.07.2012 on receipt of this show cause notice and it was only thereafter that the punishment of censure was imposed on 09.08.2012. The appeal by the applicant was also considered and rejected.

Therefore, applicant was afforded full opportunity to defend himself duly keeping in view principles of natural justice. The procedure adopted in finalising the disciplinary process cannot be faulted.

14. In view of the foregoing, there is no substance in the OA and the same is dismissed being devoid of merit. There shall be no order as to costs.

(Pradeep Kumar)
Member (A)

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