

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No.2992/2014

Thursday, this the 25th day of July 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

Shri Sunil Jauhri
Aged 46 years
s/o Shri Ramesh Chandra Verma
Film/Video Editor
Doordarshan Kendra (News)
New Delhi

..Applicant

(Mr. D S Roy, Advocate)

Versus

Union of India
Through
Secretary, Ministry of Information &
Broadcasting, New Delhi

..Respondent

(Mr. D S Mahendru, Advocate)

O R D E R (ORAL)

Justice L. Narasimha Reddy:

The applicant was working as Film/Video Editor in the Doordarshan Kendra, Bhopal. A charge sheet was issued to him on 12.06.1996, alleging that he has unauthorizedly transferred the music of 10 seconds duration from an official cassette to a private agency, and thereby resorted to acts of misconduct. The applicant submitted his explanation on 25.06.1996 and not satisfied with that, the disciplinary authority appointed the inquiry officer (IO). Since there was inaction on the part of IO,

another IO was appointed and through his report dated 06.06.2006, the IO held the charge as 'not proved'. The disciplinary authority, however, issued a disagreement note on 14.03.2008, indicating reasons. The applicant submitted his explanation on 12.04.2008. Taking the same into account, the disciplinary authority passed an order dated 07.05.2010, imposing punishment of 'stoppage of three increments, with cumulative effect'. An appeal preferred by the applicant was rejected on 07.06.2013. This O.A. is filed challenging the order of punishment dated 07.05.2010, as affirmed in the appeal.

2. The applicant contends that the IO recorded a specific finding to the effect that article of charge contained in the charge memo is not proved and despite that, the punishment was imposed. It is also stated that there was no basis for the disciplinary authority to disagree with the findings of IO.

3. The respondents filed counter affidavit opposing the O.A. It is stated that having regard to the acts of misconduct on the part of the applicant, the CBI raid was conducted and the cassette, which was required to be in possession of the applicant, was recovered from the private agency, by name M/s. Abhiyan Teletek. It is stated that the disciplinary authority has furnished cogent reasons, for disagreement with the findings of IO and that the punishment was imposed, commensurate with the gravity of charge.

4. We heard Mr. D R Roy, learned counsel for applicant and Mr. D S Mahendru, learned counsel for respondents, at length.

5. The charge against the applicant is contained in the sole article and it reads asunder:-

“Article

That, Shri Sunil Jauhri, while functioning as Film/Video Editor, DDK, Bhopal during the period April 1995 willfully and unauthorisedly handed over one U-mati cassette supplied to him by the office for official use to a private person for unauthorizedly transferring music of 10 seconds duration from the official cassette thereby committed grave misconduct reflecting serious lack of integrity and acted in a manner unbecoming of a Govt. Servant violating Rule 3 (1) (i), (ii) and (iii), CCS (Conduct) Rules 1964.”

6. The allegation was that the applicant has unauthorizedly transferred the music of 10 seconds duration, to a private agency, M/s. Abhiyan Teletek. He denied the allegation, and not satisfied with the same, IO was appointed. It is true that the IO submitted the report holding that the charge is not proved. However, the disciplinary authority issued disagreement note by indicating the following reasons:-

“(i) In the case of Shri Sunil Jauhri, Shri Rajesh Bhatia in his deposition (dated 29.1.03) stated that he picked Shri Jauhari in his scooter on 15th April, 1995 from DDK, Bhopal to drop him at the Bank. Meanwhile, he (Shri Bhatia) realized the urgency of some work at Abhiyan Teletek and diverted the Scooter to the studio and Shri Jauhari had no option than to accompany him up to the studio of Abhiyan Teletek.

(ii) The inquiry has established that tape no.883 issued to Jauhari for official use by the DDK, Bhopal was found

by the CBI on 15.04.95 from the studio of M/s Abhiyan Teletek. There is a strong probability that the intention of the C.O. was to hand over the tape to Shri Bhatia for transferring the music otherwise he had no business to be present at the Studio on 15.4.95.

(iii) Keeping in view the fact that Shri Jauhari accompanied Shri Bhatia on latter's scooter to the studio of M/s Abhiyan Teletek and taking into account the evidence that tape issued to the C.O. was found with the Pvt. Producer. The Article of charge framed against the C.O. stands proved. The findings of the I.O. that the charge against the C.O. does not stand, is not based on proper & logical analysis of the evidences adduced during the course of inquiry.”

7. The applicant did not deny the basic facts, viz. that he accompanied the person, who is running the private agency, and that the CBI recovered the cassette in question, right in the premises of M/s. Abhiyan Teletek. The disciplinary authority imposed the punishment of stoppage of three increments with cumulative effect.

8. The applicant did not point out any procedural defects in the entire proceedings. His plea is that the report of the IO ought to have been accepted by the disciplinary authority.

9. This is not a case, where the charge was based upon any version of the individuals or that it depended on the perception of the disciplinary authority. The CBI conducted a raid and recovered a cassette from M/s. Abhiyan Teletek. The said cassette was required to be in the possession of the applicant. However, he tried to explain the same by stating that he had to accompany one Mr. Rajesh Bhatia, associated with M/s.

Abhiyan Teletek, on the way to bank. An effort was made to disassociate himself with the recovery of cassette. The fact is that the CBI recovered the cassette, which was required to be in the possession of applicant, from a private production agency. Therefore, the view taken by the disciplinary authority cannot be said to be without basis.

10. However, in the context of punishment, we are of the view that the disciplinary authority did not indicate the nature of damage or loss caused to the respondents, on account of the lapses on the part of the applicant. Though it is deviation from duty, the applicant can be imposed the punishment of 'stoppage of increment without cumulative effect' by denying him the arrears.

11. We, therefore, partly allow the O.A. upholding the punishment, but directing that it shall be 'without cumulative effect' and the applicant shall not be entitled to any arrears on account of this.

There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

July 25, 2019
/sunil/