

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.1172/2003

New Delhi, this the 3rd day of February, 2004

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE SHRI S.A.SINGH, MEMBER (A)

Shri Raghuvan Dayal
s/o Late Shri Khari Singh
Ex. Technical Assistant
Under Directorate of Employment
6, Shan Nath Marg
Delhi - 110 054. Applicant

(By Advocate: Smt. Meenu Mainee)

Versus

Govt. of N.C.T. of Delhi: through

1. The Chief Secretary
Govt. of N.C.T. of Delhi
Delhi Secretariat
New Delhi - 110 002.
2. The Secretary-cum-Director (Employment)
Directorate of Employment
Govt. of N.C.T. of Delhi
6, Sham Nath Marg
Delhi - 110 054. Respondents

(By Advocate: Shri Ram Kawar)

O R D E R

Justice V.S. Aggarwal:-

The applicant Shri Raghuvan Dayal had been served with the following charge:

"That the said Shri Raghuvan Dayal, Technical Assistant while functioning as Zonal Employment Officer in the Sub-Regional Employment Exchange, Shahdara during the month of August, 1993 had sponsored the list of 72 candidates vide Order Card No. NOC/203/93/Suppl./3895 dated 26.8.93 against the vacancies of Peon notified by the Deptt. of Telecommunication, Dak Bhawan, vide their letter No. A-120221/1/93/Admn.III dated 17.6.93. The aforesaid list contained the names of such bogus candidates. He has sponsored the names of such bogus candidates with ulterior motive, malafide intention and for consideration. He has failed to maintain absolute integrity, devotion to duty and has acted in a manner unbecoming of a Government Servant. He has, thus, violated Rule 3(1)(i)(ii) & (iii) of CCS (CCA) Rules, 1964."

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2. The inquiry officer had returned findings adverse to the applicant. Acting on the same, the disciplinary authority dismissed the applicant from service. He preferred an appeal on 21.4.2003. The appellate authority dismissed the said appeal.

3. By virtue of the present application, the applicant seeks quashing of the orders passed by the disciplinary and the appellate authority with reinstatement and consequential benefits.

4. The application has been contested. Respondents contend that applicant was functioning as Zonal Employment Officer in the Sub-Regional Employment Exchange, Shahdara. In August, 1993, he had sponsored the list of 72 candidates against the vacancies of Peon notified by the Department of Telecommunication. It contained the names of 66 bogus candidates. In the departmental inquiry, all the documents prayed for by the applicant were supplied. Thereupon, the disciplinary authority had passed an order and his appeal was dismissed. According to the respondents there is no procedural irregularity.

5. Learned counsel for the applicant, besides other pleas, contended that the disciplinary as well as the appellate authority have taken into consideration the extraneous factors and therefore, the impugned orders cannot be sustained. According to the learned counsel, factors which were not part of the charge even, have been considered.



6. We ^{know} note from the decision rendered in the case of State of Haryana v. Om Prakash, Constable, 1990 (Supp) SCC 282 that the punishing authority is not entitled to take into consideration the allegations beyond what were mentioned in the charge.

7. This principle is well recognised because the charge is generally drawn to inform the concerned persons about the nature of the misconduct on their part. Once it is conveyed, he can take action and contest the matter accordingly. If no prejudice is caused, things would be different. If abundantly extraneous factors have been taken into consideration which were not part of the charge, in that event a person can conveniently claim prejudice.

8. In the present case before us, the disciplinary authority recorded:

"I have gone through the facts and evidences on record and the Inquiry Report and also considered the representation dated 2.7.2001 by Shri Dayal. I found that listed document (s. No.5) is one of the prosecution's exhibited document (P/V) in the list annexed to the Inquiry Report. Available additional documents were also supplied to the C.O. and for rest the non-availability was duly intimated to the C.O. The Inquiry Report is exhaustive, critically analyzed by the I.O. and logical conclusion drawn that the C.O. had signed/sponsored the bogus names. Anti Corruption Branch had not only found Shri Raghavar Dayal responsible for sponsoring bogus list in the instant case but had mentioned of Shri Raghavar Dayal's arrest by the Crime Branch in many cases for sponsoring bogus lists in other cases."

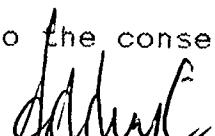
9. When the matter went on appeal, even the appellate authority recorded:

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"All the records i.e. the charge sheet, the inquiry report, the conduct of the charged officer which can be gleaned in various criminal cases and arrests have been examined by the under signed. Further, the orders of the disciplinary authority clearly proves that the charged officer had been provided with all the necessary documents that are essential for defending his case. Moreover, in all the stages of disciplinary proceedings both at the inquiry stage and before passing the order by the disciplinary authority the opportunity of due hearing have been extended to the charged officer."

10. It is abundantly clear from the aforesaid that the charge was pertaining to sponsorship of 66 names of bogus candidates with ulterior motive and mala fide intention but the disciplinary authority and appellate authority have taken into consideration further the other conduct of the applicant that he was arrested by the Criminal Branch in many cases in this regard. Once this fact was not in the charge, it cannot be taken note of. This clearly shows that extraneous factors have been taken into consideration by the disciplinary authority as well as the appellate authority. Therefore, the impugned orders cannot be sustained.

11. For these reasons, we quash the impugned orders and direct that the disciplinary authority, from the stage the order in question was passed, will pick up the loose threads and pass a fresh order in accordance with law. The applicant would be entitled to the consequential benefits. No costs.


(S.A. Singh)
Member (A)


(V.S. Aggarwal)
Chairman