

(10)

Central Administrative Tribunal, Principal Bench
Original Application No. 1502 of 2003

New Delhi, this the 29th day of March, 2004

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. R.K. Upadhyaya, Member(A)

Baljit Singh,
S/o S. Tara Singh,
R/o 81, Good-Will Apartments,
Sector-13, Rohini,
Delhi-85

....Applicant

(By Advocate: Shri S.K. Gupta)

Versus

1. Govt. of NCT of Delhi,
Through Chief Secretary,
Delhi Secretariat,
IG Stadium, IP Estate,
New Delhi-2

2. Director,
Department of Prevention of Food Adulteration,
A-20, Lawrence Road Industrial Area,
Delhi

....Respondents

(By Advocate: Shri Vijay Pandita)

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

By virtue of the present application, the applicant seeks to assail the order passed by the disciplinary authority dated 16.10.2002. By virtue of the same, the disciplinary authority accepting the report of the enquiry officer, passed an order on 17/18.10.2002 dismissing the applicant from service. The appeal has since been dismissed.

2. Without dwelling into any other controversy, learned counsel for the applicant referred to us the order passed by the disciplinary authority dated 16.10.2002 and on the strength of the same contended that certain

Ms Ag

documents which were required by the applicant were not supplied and this has caused prejudice to the applicant. It is not in dispute that the enquiry officer had rejected the said request of the applicant. The operative part of the order passed by the disciplinary authority reads:

"As regards the findings of guilt in respect of the first charge sheet are significant but the logic developed to arrive at the conclusion needs to be examined with utmost care. It is noticed that prior to holding the ex-parte hearing in the matter the inquiry officer had rejected the request of the charged officer for making available certain documents that charged officer considered were necessary for preparing his defence. The details of the documents called by the charged officer are listed in his letter dated 1st May, 2002. The documents asked by the charged officer at S.No.1 & 8 of his list are public documents, which he could have procured by approaching the concerned authorities. I feel that the charge officer was not justified in asking the Directorate to procure the same for him from concerned authorities that have records. Thus I consider the inquiry officer was right in rejecting the request. As regards documents listed at S.No.2 & 3 of his letter under discussion the same do not exist to the knowledge of the Directorate and under the circumstances the same have been rightly. As regards documents listed at S.No.4, 5, 6 and 7 of his letter I feel the inquiry officer should have allowed the same. As regards persons that the charged officer wanted to be summoned the inquiry officer was right in holding that the charged officer could seek their summons as his witnesses in the course of inquiry. By abstaining to join proceedings the charged officer cannot put the blame on disciplinary authority or the inquiry officer."

2. Perusal of the same would show that the disciplinary authority, on the contrary, was of the opinion that documents listed at serial numbers 4, 5, 6 and 7 should have been supplied to the applicant. After holding that the documents had not been supplied to the applicant,

As Ag

the disciplinary authority did not deem it necessary to supply the same and proceeded to pass the order which is now under the gauge of this Tribunal.

4. This lacuna goes to the root of the matter. Because the documents which should have been supplied have not been supplied, necessarily the applicant genuinely can claim of his rights having been affected and that prejudice is caused to him.

5. Keeping in view the aforesaid, we are not deciding any other controversy. We allow the present application and quash the impugned order. It is directed that the matter should be placed before the Director, Department of Prevention of Food Adulteration (Respondent No.2) who would from the stage the impugned orders were passed, may take note of the facts and pass a fresh order in accordance with law as may be deemed appropriate. The applicant would be entitled to the consequential benefits. Necessary decision in this regard may be taken preferably within four months of the receipt of the certified copy of the present order.

R.K.Upadhyaya
(R.K. Upadhyaya)

Member (A)

V.S. Aggarwal
(V.S. Aggarwal)

Chairman

/dkm/