



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No. 654/2014

New Delhi, this the 21st day of November, 2019

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

Mr. Vinayak Dube,
S/o Sh. Vidyadar Dube,
Aged 49 years,
Sub-Inspector of Police,
Central Bureau of Investigation,
International Police Cooperation Unit,
New Delhi,
Residing at L-1/260A,
DDA Flats, Kalkaji,
New Delhi – 110019.

...Applicant

(By Advocate: Mr. Rajeev Taqvi for Mr. Sanjay Verma)

Versus

1. Union of India,
Represented by the Secretary,
Department of Personnel & Training,
Ministry of Personnel, Public Grievances
And pensions,
North Block, Government of India,
New Delhi – 110001.
2. The Director & the Appellate Authority,
Central Bureau of Investigation,
Plot No. 5B, CGO Complex,
Lodhi Road, New Delhi – 110003.
3. The Head of the Branch &
The Disciplinary Authority,
Economic Offence-III,
Plot No. 5B, CGO Complex,
Lodhi Road, New Delhi – 110003.
4. The Additional Superintendent of Police &



The Inquiry Authority,
Central Bureau of Investigation,
International Police Co-operation Cell,
Plot No. 5B, CGO Complex,
Lodhi Road, New Delhi – 110003.

5. The Additional Superintendent of Police &
The Investigating Officer,
Central Bureau of Investigation,
Anti Corruption Unit-IX,
Plot No. 5B, CGO Complex,
Lodhi Road, New Delhi – 110003.

6. The Inspector of Police &
The presenting Officer,
Economic Offences Unit 6,
Plot No. 5B, CGO Complex,
Lodhi Road, New Delhi – 110003.

...Respondents

(By Advocate: Mr. C. Bheemanama)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman:-

The applicant was initially appointed as Sub Inspector (SI) in the Central Bureau of Investigation (CBI) on 08.12.1989 and was promoted to the post of Inspector on 02.01.1995. He was issued a charge memorandum on 02.07.2008. It was alleged that he sent obscene and objectionable messages to another Inspector Mrs. Neelam Singh on as many as 11 occasions.

2. The applicant submitted a reply on 16.07.2008 denying the allegations. Not satisfied



with the same, the Disciplinary Authority (DA) appointed the Inquiry Officer (IO). The enquiry was conducted and the IO submitted his report on 15.07.2010 holding the charge, as proved. However, he made an observation that the various contentions raised by the applicant in his written representations may be considered by the DA. Taking the same into account, the DA forwarded that to the IO, and the latter in turn submitted supplementary report on 07.08.2010 reiterating the findings of the report dated 15.07.2010. The applicant was given an opportunity to submit his remarks and was also given opportunity of being heard. The DA issued a show cause notice dated 17.08.2010 requiring him to explain, as to why, the punishment of dismissal be not imposed against him. The applicant did not submit his explanation and ultimately the DA passed an order dated 14.03.2012 imposing the punishment of reduction in rank.

3. Aggrieved by this, the applicant filed an appeal and complaining that the appeal was not disposed of, he filed OA No. 698/2012 and the same was disposed of on 27.02.2013 with a



direction to the Appellate Authority (AA) to pass orders. The AA rejected the appeal through order dated 29.04.2013. This OA is filed challenging the order of punishment as confirmed by the AA.

4. The applicant contends that the charge levelled against him is totally false and he did not send any message to the Inspector Mrs. Neelam Singh. It is stated that though he raised several objections during the course of the enquiry and pointed out the inconsistency in the evidence of the witnesses, the same was not taken into account and the charge was held as proved. He further submits that calling for supplementary report from the IO is not permissible under law. The applicant submits that the punishment imposed against him is disproportionate.

5. Respondents filed a detailed counter affidavit opposing the OA and narrating the sequence of events. It is stated that on receipt of a complaint from Mrs. Neelam Singh stating that the applicant sent obscene messages to her, an FIR was filed on 27.09.2007 and, simultaneously, disciplinary proceedings were initiated. It is stated



that the applicant was given ample opportunity at every stage and the oral documentary evidence adduced in the enquiry clearly proves the allegations against the applicant. Respondents further stated that the objectionable messages were sent from the mobile of the wife of the applicant and it emerged that the applicant was frequently using it for his purpose.

6. We heard Mr. Rajeev Taqvi for Mr. Sanjay Verma, learned counsel for the applicant and Mr. C. Bheemanama, learned counsel for the respondents and closely perused the records.

7. The applicant was initially appointed as SI and was promoted to the post of Inspector, in the CBI. A charge memorandum was issued to him on 02.07.2008. The allegations contained in the charge memorandum, read as under:-

**“ STATEMENT OF ARTICLE OF CHARGE
FRAMED AGAINST SH. VINAYAK DUBE,
INSPECTOR, CBI, SCR-III, NEW DELHI.**

That Sh. Vinayak Dube while posted and functioning as Inspector, CBI, SCR-III, New Delhi during 2006-2007 committed misconduct in as much as he sent some messages (sms) during Oct.-Nov/2006 and further sent 11 messages (sms) during Feb. 2007 from Mobile No. 9811136966 to Smt. Neelam Singh, Inspector, CBI, EOU-V, New Delhi on her Mobile No. 9868244777 which were obscene in nature, intended to insult and



humiliate her and were derogatory towards her caste and thus he acted in a manner unbecoming of a public servant in gross violation of the conduct rules.

Sh. Vinayak Dube by his above acts failed to maintained absolute integrity and exhibited conduct unbecoming of a public servant and thereby, violate Rule-3(1) (iii) of CCS (Conduct) Rule 1964.”

8. The allegations is about the sending of messages to Mrs. Neelam Singh, Inspector, CBI from Mobile No. 9811136966. It emerged that while the Mobile No. of Mrs. Neelam Singh was 9868244777, the Mobile No. 9811136966 was registered in the name of the wife of the applicant. The text of messages is furnished in annexure-II of the charge memorandum. A perusal of the same discloses that they are in a very bad taste and awkward in nature. Such messages do not emanate from a civilized person. We found it somewhat delicate to extract them here.

9. The applicant denied the allegations made against him and that in turn resulted in conducting of departmental enquiry. The scope of enquiry was very limited. The reason is that the text of the messages is a matter of record; and the mobile from which those messages emanated and the one on which they were received, cannot be



doubted at all. The whole controversy is, as to whether, applicant can be said to have used the mobile, registered in the name of his wife. To be fair to the applicant, the respondents have taken every step meticulously. For example, private calls that have been made to the Mobile No. 9811136966 were taken note of. The persons who received the calls were examined as witnesses. Their consistent version was that the calls were received from the applicant and not from his wife. That proves that the mobile was being used by the applicant. The inescapable conclusion is that either the owner of the phone or the user has sent the messages. There is nothing on record to disclose that the wife of the applicant was inimical to Mrs. Neelam Singh and she would have sent those messages. The nature of defence offered by the applicant was almost evasive.

10. The IO submitted a report on 15.07.2010 holding that the charge is proved. However, an observation was made that the representation made by the applicant pointing out the so called discrepancies of the evidence or witnesses may be examined by the DA. The DA in turn required the



IO himself to examine the matter in detail, with reference to the representation submitted by the applicant. It is in this context, that a supplementary report/finding turning into 10 closely typed pages was submitted by the IO. Every plea raised by the applicant was examined. The mere fact that the DA obtained the remarks of the IO does not vitiate the proceedings. The applicant cannot be said to have suffered any detriment on account of that. In fact, an element of objectivity and fairness is ensured.

11. Once the supplementary report was received the DA furnished a copy of the same and issued a show cause notice requiring him to explain, as to why, the punishment of dismissal may not be imposed against him. The applicant did not submit his representation. An opportunity of personal hearing given to the applicant was not availed. In all fairness, the DA imposed a lesser punishment of reduction in rank, and that shows a bit of compassion exhibited by the DA. The AA has examined the appeal in detail and dismissed the same. We do not find anything illegal at that stage.



12. We do not find any merit in the OA and the same is, accordingly, dismissed. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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