SUPREME COURT OF INDIA

Syed Rahimuddin

Vs.

Director General, C.S.I.R.

C.A.No.9472 of 1996

(G. B. Pattanaik and U. C. Banerjee JJ.)

11.01.2001

ORDER

1. An order of compulsory retirement in a departmental proceeding under the provisions of Central Civil Services (Classification, Control and Appeal) Rules (for short the CCS Rules) is the subject matter of challenge in this appeal. Against the delinquent-respondent in accordance with the procedure prescribed under the CCS Rules a set of charges having been levelled. He was called upon to answer those charges in a regular inquiry. Before the Enquiring Officer the delinquent prayed for production of certain documents and in fact, an order was passed by the Enquiring Officer directing the departmental authorities to give copies of those documents to the delinquent. But, notwithstanding the same the allegation of the delinquent is that some of those documents had not been produced. Ultimately, on the basis of the materials produced, the Enquiring Officer came to the conclusion that the charges against the delinquent have been proved by the departmental authorities. On the basis of the said report of the Enquiring Officer, the disciplinary authority imposed the punishment of compulsory retirement after coming to the conclusion that the charges against the delinquent must be said to have been established beyond doubt. The delinquent then preferred an appeal before the appellate authority, but the same having been dismissed, he approach the Central Administrative Tribunal, Hyderabad Bench (the Tribunal). The Tribunal by the impugned order came to the conclusion that there has been no invalidity in the inquiry proceeding nor can it be said that there has been an violation of principles of natural justice and, therefore, the order of punishment cannot be interfered with. The Tribunal having dismissed the application filed by the delinquent, he is in appeal before this Court.

2. Mr. H.S. Gururaja Rao, the learned senior counsel appearing for the appellant, seriously contended before us that notwithstanding the order of the Enquiry Officer directing production of the documents, non-production of some of those documents itself tantamounts to denial of reasonable opportunity to the delinquent to defend his case and the Tribunal, therefore, was in error in not accepting the said contention raised before it. The learned counsel further urged that the Architect who was the key defence witness in the case, though had been summoned but did not depose on being pressurised by the Enquiry Officer and that

itself would vitiate the ultimate conclusion of the Enquiry Officer. The learned counsel further contended that the conclusion arrived at by the Enquiry Officer must be held to be conclusion without any evidence and as such those conclusions could not have formed a basis of the ultimate decision of the disciplinary authority. He lastly submitted that bias writ large on the order of the Enquiring Officer itself and though this contention had been raised before the Tribunal, but the Tribunal did not apply its mind to the relevant parts of the orders of the Enquiring Officer and brushed aside the said contention of the delinquent.

3. We have considered each of the contentions raised by the learned counsel for the appellant, but we do not find any substance in any one of them. It is, no doubt, true that the delinquent had made an application for production of certain documents and the Enquiring Officer did pass an order for production of those documents. It also transpires that some of those documents were produced any yet some of them had not been produced. When a grievance was made on this score before the Enquiry Officer by filing a representation of 3rd of August, 1989, the said Enquiring Officer considered the said grievance and came to the conclusion that the very fact that though the inquiry continued from 3-7-1989 to 6-7-1989 and the delinquent had been cross-examining the departmental witnesses, yet no grievance had been made on the score of non-production of any of those vital documents which, according to the delinquent, could have established the defence case. The Enquiring Officer came to the conclusion that the so-called representation D/ - 3rd of August, 1989 making a grievance is a dilly dally tactics on the part of the charged officer and the sole intention was to stall the inquiry by any means. In view of the aforesaid conclusion of the Enquiring Officer in its order disposing of the grievance made on 3-8-1989 we do not find any substance in the argument of the learned counsel that in fact the delinquent was really prejudiced by non supply of some of the so-called vital documents though for production of the same the Enquiring Officer had ordered. The Tribunal, therefore rightly came to the conclusion that such alleged non-production cannot be held to be a denial of reasonable opportunity to the delinquent in making his defence.

4. So far as the grievance of the examination of the Architect is concerned, we find that before the Tribunal no whisper has been made that the said Architect was terrorised by the Enquiring Officer which resulted on the part of the Architect not to depose in favour of the delinquent. In paragraph 18 of the order of the Tribunal the grievance relating to the examination of Architect has been dealt with and it appears that the said Architect was duly summoned and he did appear but refused to say anything in favour of the delinquent. This conduct on the part of the Architect who was cited as a defence witness, cannot be held to be a lacuna in the inquiry proceeding nor can it be held to be an infirmity on the part of the Enquiring Officer so as to vitiate the inquiry proceeding or the conclusion arrived thereunder.

5. The further grievance that the findings of the Enquiring Officer are findings on no evidence is belied by the very report of the Enqiring Officer. The Enquiring Officer has dealt with the Articles of charge chronologically and the relevant materials on the basis of which the ultimate conclusion is arrived at. It is well settled that a conclusion or a finding of fact arrived at in a disciplinary inquiry can be interfered with by the Court only when there is no materials for the said conclusion; or that on the materials, the conclusion cannot be that of a

reasonable man. Having examined the report of the Enquiring Officer, we are unable to accept the contention of the learned counsel for the appellant that the findings of the Enquiring Officer cannot be held to be findings based on no evidence.

6. The only other contention that survives for consideration is the allegation of bias. Though no specific allegation of bias had been made but the contention is based upon the very reasonings of the Enquiring Officer and the conclusion arrived at. According to the counsel for the appellant, a reference to the order of the Enquiring Officer would indicate that the said Officer was actuated with bias and proceeded to deal with the materials with that bias in the mind which resulted in the ultimate conclusion of finding of guilt of the charges levelled against the delinquent. We were taken through paragraph 4.2 which is at page 290 volume II of the paper books that is produced before us and before the Tribunal paragraph 4. 11 which is at page 296 of the same volume had been placed. On going through the aforesaid two paragraphs, we are unable to accept the contention that the assertions made in those paragraphs indicate or establish any bias of the Enquiring Officer towards the delinquent. Bias undoubtedly, would have to be established either by evidence or on the materials on record which are relied upon by the Enquiring Officer in coming to his conclusion as to the guilt of the delinquent. In the case in hand, after applying our mind to the relevant materials, we do not find any substance on the allegation of bias made by the delinquent as against the Enquiring Officer.

7. In the aforesaid premises, we do not find any legal infirmity with the impugned order of the Tribunal so as to be interfered with by us. This appeal accordingly fails and is dismissed.

Appeal dismissed.