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**C. Ponnusamy v/s Union of India rep.
by the Secretary & Others**

Original Application No. 1382 of 2011

Decided On, 27 February 2012

**At, Central Administrative Tribunal Madras
Bench**

By, THE HONOURABLE MR. G. SHANTHAPPA
JUDICIAL MEMBER & THE HONOURABLE
MRS. O.P. SOSAMMA
ADMINISTRATIVE MEMBER

For the Applicant: M/s. R. Malaichamy, C.
Premkumar, R. Baby, S. Baskar, Advocates. For
the Respondents: R1 to R3 M.T. Arunan,
Advocate.

Judgment Text

(G. Shanthappa, Judicial Member.)

1. The above application has been filed under Sec,19 of the Administrative Tribunals Act, 1985, being aggrieved by the charge memo dated 24.08.2009.

2. We have heard the learned counsel for the respective parties. The admitted facts from either side are that the impugned charge memo dated 24.08.2009, has been signed by one Mr.S.Ravi S.O whose name has been shown as one of the witnesses in the list of witnesses and he has also signed each page of the charge memo. One Dr.B.K.Tyagi, Deputy Director (SG) and officer in charge Centre for Research in Medical Entomology, has signed only in charge memo and not on each page of the Annexures I,II & III. Annex. IV, list witnesses was not served alongwith the charge memo. It is an admitted fact that Shri. S.Ravi Administrative Officer was appointed as inquiry officer vide order dated 24.09.2009(Annex.A.2). The applicant submitted a bias petition on 08/02/2010 and 12/08/2010 (Annex.A/3 & Annex.A/4). During the pendency of the O.A, realizing that one of the witnesses is the inquiry officer, vide order dated 07/08.12.2011, smt. Shobha Rani, Sr. Admn. Officer (ECD) has been nominated to act as inquiry officer to inquire into the impugned charge memo.

3. It is the grievance of the applicant that the impugned charge memo is illegal and against Rule 14(5) of the CCS(CCA) Rules, 1965, the 3rd respondent is the material witness to the charges leveled against him and since he is not the competent authority and that he has no power to do so. The action of the respondents is arbitrary and illegal. The applicant has no objection to issue fresh charge sheet after quashing the impugned charge memo. He will be cooperative with the inquiry officer, provided the charge memo is issued by the competent authority in accordance with Rule 14 of the CCS (CCA) Rules, 1965. The Documents listed therein were not supplied to him and hence the impugned charge memo is liable to be quashed. The reply statement to the O.A has been signed by Mr.S.Ravi, Administrative Officer of the Centre for Research in Medical Entomology, Madurai, and he has not filed any separate reply statement even though he was arrayed as 4th respondent.



4. The respondents vehemently opposed the O.A denying the allegations made against them and admitted the facts that Mr.S.Ravi Section Officer has signed the charge memo and he has signed each page of the annexures. Since Dr.B.K.Tyagi Deputy Director, (SG) & Section Officer incharge, Centre for Research in Medical Entomology, Madurai, is the competent authority to issue charge memo and accordingly he has signed the memorandum of charges but he has not signed each page of the annexures to the charge memo. Shri. S.Ravi S.O. has issued the Order on 27/01/2010 giving an opportunity to the applicant to the inspect the list of documents mentioned in the annexures to the charge memo issued to him, during the course of inquiry. Since Mr.Ravi knows the case very well he is authorized to sign the reply affidavit on behalf of the respondents. He denies the allegations and averments made in O.A. The applicant was given full opportunity to inspect the list of documents as per annexure IV to the charge memo. As per CCS(CCA) Rules, 1965 the respondents need not show the documents at this stage to prepare the defence statement in reply to the charge sheet. As per Sub Rule 5 (a) of Rule 14 of the CCS (CCA) Rules, 1965, the applicant has either to admit or deny the charges communicated to him. The applicant was called to appear in the preliminary hearing to be held on 09.12.2009 under Rule 14 of the CCS(CCA) Rules 1965. The applicant was informed to attend the proceedings either alone or accompanied by his defence assistant. The applicant had submitted a letter informing that One Shri SM Balasubramaniam, Assistant Superintendent of Post Offices, Tirunelveli Division. Tirunelveli was nominated by him as his defence assistant during the inquiry. However, it came to light that no permission was given to Shri Balasubramaniam by his parent department to function as defence assistant to the applicant.

intimated by the inquiry officer to appear for the preliminary inquiry on 10/06/2011 at CRME headquarters. The applicant appeared with his defence assistant on 10/06/2011. After completion of the preliminary inquiry a daily order sheet was issued. It is stated in the reply there is no truth in the allegations. It is further stated in the reply that the applicant has not been prejudiced even if the list of witnesses was not served on him and even at this stage the said defect can be cured. 4

6. The applicant has filed rejoinder denying the statement made in the reply filed by the respondents reiterating that Annex.IV the list of witnesses by whom the articles of charge framed against him are opposed to be sustained was not served on him. The remaining submissions made in the rejoinder are in the form of repetition of the averments made in the O.A. Along with the rejoinder he has produced daily order sheet dated 10/06/2011.

7. In support of his submissions, the learned counsel for the applicant relied on the following judgements/orders of various Courts including the Hon'ble Supreme Court.

1.) Roop Singh Negi Vs Punjab National bank & Others (Supreme Court) - Civil appeal No.7431 of 2007.

2.) Sharmanand Vs Superintendent Gun Carriage(Madhya Pradesh High Court) - AIR 1960 MP 178

3.) Union of India & Others Vs Ramakaran Sharma (Delhi High Court) - W.P.(C)No.7895/2009

The applicant has also relied on the orders of the Various Benches of the Central Administrative Tribunal.

1.) Jeewan khan Vs Union of India & others(Jodhpur Bench)
- 2000(3) ATJ 267

2.) Shri Vijay pal Vs. UOI & Others (CAT, Principal Bench,
New Delhi) - 2001 (2) ATJ 33

3.) Ex Head Constable Vijay Singh And Others etc., Vs.
Union of India & Others (Full Bench at Principal Bench New
Delhi) - 2001(3) ATJ 554

4.) V.Pachinathan Vs. UOI & Others (CAT Ernakulam Bench)
2003 (3) ATJ 287

5.) Dr. Anil Kumar Mukhi Vs The Chief Soil Survey Officers &
Others (CAT Bangalore Bench) – 2006 (2) SLJ 105 CAT

6.) M.Veerayya Vs. UOI and & Others (CAT Bangalore
Bench) – 2007 (3) SLJ 27 CAT

7.) C.V.Mohan Kumar Vs. The Commissioner of Central
Excise and Others (CAT Bangalore Bench) – 2008 (2) SLJ 104
CAT

8. We have carefully considered the submissions of the
learned counsel for the applicant as well as learned
counsel for the respondents and also persued the
pleadings available on the record and also the judgements
cited by the learned counsel for the applicant. We have
also persued the Rule 14 of the CCS(CCA) Rules, 1965.

9. According the admitted facts, it is evident that
Annex.A.1/Annex.II(a) to the reply statement, has been
signed by Mr.S.Ravi, Section Officer, for office in charge.
Below his signature, only to the memorandum of the
charges except Annexures, Dr.B.K.Tyagi Deputy Director
(S.G) & Officer in-charge, Centre for Research in Medical

Entomology Madurai has affixed his signature. Annexures to the memorandum of charges are signed by Mr.S.Ravi. Annex.IV, to the charge memo, i.e. the list of witness, was not enclosed along with the O.A. In the reply statement, the respondents have stated nothing about the supply of Annex.IV. Therefore it is evident that annex.IV was not supplied to the applicant. As per Memo No.CRME/DIC/2009/1314, dated 24/09/2009 (Annex.A/2) Dr. B.K. Tyagi, Officer in charge CRME, Madurai has appointed Mr. S.Ravi Administrative Officer as Inquiry Authority to inquire into the charges framed against Shri Ponnusamy UDC (i.e the applicant herein).As per Annex. A/3 (page 10 of the O.A) name of Shri S.Ravi SO has been shown as one the officials duly signed the list of vouchers taken out from the custody of Shri C.Ponnusamy (the applicant) in the presence and witnessed by Shri S.Ravi SO and 4 others.

10. The applicant has submitted bias petition to the higher authorities. His contention in the bias petition is that since Shri S.Ravi SO is one of the witnesses, who has signed the charge memo, he should not function as inquiry officer. It is relevant to go through the rule position. Sub-rule 4 of rule 14 of CCS (CCA) Rules, 1965 reads as under:

(4) the disciplinary authority shall deliver or cause to be delivered to the Government servant a copy of the articles of charge, the statement of the imputations of misconduct or misbehaviour and a list of documents and witness by which each article of charges is proposed to be sustained and shall require the Government servant to submit, within such time as may be specified, a written statement of his defence and to state whether he desires to be heard in person.

The respondents realizing their mistake, during the pendency the O.A have issued letter No.MISC/CRME/2009/ECD-1 dated 07/08.12.2011 stating that smt.Shobha Rani Sr.Admn.Officer(ECD) has been appointed to act as inquiry officer in the case of the applicant. The learned counsel for the respondents submits that the applicant will not be prejudiced since the inquiry officer has been changed and he has been given opportunity to inspect the documents during the course of inquiry and therefore the contention of the applicant is not sustainable in the eyes of law.

11. We have carefully gone through the judgements/orders relied on by the applicant in support of his contention and considered the facts of those cases with the facts of the case on hand. The judgments cited by the learned counsel for the applicant has no relevance to the facts of this case except the decision of the Ernakulam Bench rendered in the case of V.Pachinathan Vs.UOI & Others. (supra) Accordingly we have rejected the application of the said cases to the facts of this case. The issue involved in Pachinathan's case (supra) is that the annexures appended to the charge memo have not been signed by disciplinary authority. In the present case also Shri Ravi is not the competent authority to sign the charge memo and further his name has been shown as one of the witnesses and he was also appointed as inquiry officer to inquire in the charges leveled against the applicant.

Most important
Article.

12. Rule 14(4) is very clear that memorandum of charges has to be served along with the statement of imputations of misconduct or misbehaviour and a list of documents and witnesses by which each article or charges is proposed to be sustained. In the present case, the list of witnesses has not been served and the charge memo to be signed by the competent authority and each page of the annexures

appended to the charge memo also have to be signed by the competent authority and the list of documents are to be supplied to the charged/ delinquent officer. The learned counsel for the respondents submitted that the inquiry conducted by Shri Ravi in half way and it has to be con

cluded. Therefore Smt. Shobha Rani may be permitted to continue the inquiry from the stage where Shri Ravi left the same and the entire charge memo need not be quashed.

13. Under the facts and circumstances of this case and as per Rule 14 of the CCS(CCA) Rules, 1965, the charge memo has to be signed by the Competent Authority, the list of witnesses has not been supplied along with the charge memo as it stands today is illegal and against to Rule 14(4) of CCS(CCA) Rules, 1965. The proceeding conducted by Shri.S.Ravi S.O. is illegal, he has no authority to sign the charge memo, he should not be appointed as inquiry officer. Hence we are inclined to quash the charge memo dated 24/08/2009 and we do so accordingly. The respondents, i.e. the competent authority, are directed to issue fresh charge memo in accordance with Rule 14 of the CCS(CCA) Rules, 1965 after giving an opportunity to the applicant to submit representation to the charge memo and conduct the inquiry from the initial stage. The applicant is directed to cooperate with the inquiry officer and the inquiry officer is directed to conclude the inquiry at an early date. 14. The O.A. is allowed to the extent as indicated in the earlier para. No costs.