

CASE STUDY: 1

UNAUTHORISED ABSENCE

The X, who joined a govt. department as a temporary govt. servant and working as Security Assistant (G), was proceeded departmentally on 2nd September, 1996 for the following charge:

“While functioning as SA(G) in the office of DCIO under SIB unauthorisedly absented from duty between 3.10.1995 and 7.11.1995, 9.11.1995 and 10.12.1995 and from 10.12.1995 to 2.8.1996, thereby violating Rule 3(1)(ii) 3(1)(iii) of Central Civil Services (Conduct) Rules, 1964.”

On receipt of charge-sheet the X denied the allegation by his reply dated 7th October, 1996 and also alleged bias against his Controlling Officer, Y(DCIO) with specific stand that he was prevented by him from signing the attendance register and to attend the office. He also explained reasons of absence for certain period for which he had applied for leave.

During the pendency of the departmental proceedings, the X was transferred to another place which he challenged before the Central Administrative Tribunal alleging bias against his superior Officer. The CAT by order dated 15th November, 2000 set aside the order by holding ‘the order of transfer is vitiated due to malice in law and fact’ which was affirmed by the High Court on 17th August, 2001.

The charge against X was sought to be proved by respondents on the basis of statement of three witnesses, namely, (i) Y (DCIO) (ii) ACIO-II, and (iii) JIO-I(MT), and seven documentary evidence, including attendance register of the office of DCIO, but the complainant refused to appear in the Inquiry in support of complaint and charge. Two other witnesses, made no statement against the X, and one of them stated that he had no knowledge about absence of the X.

As per records, on 11th August, 1995, the X requested the respondents to transfer him from his present place of duty, Palanpur, to any nearest place at Ahmedabad or Nadiad or Anand which was accepted by respondents and an order of transfer was issued by the respondents on 21st August, 1995 transferring the X to the office of DCIO, Nadiad with immediate effect.

On 25th August, 1995, the Joint Assistant Director, SIB ordered to release the X from Palanpur to join duty at Nadiad with effect from 31st August, 1995. In view of such order the X was relieved and joined at Nadiad. However, the order of transfer was cancelled by the respondents on 4th September, 1995 and he was transferred at a distance place which was challenged by him before the CAT.

After cancellation of the order of transfer the X sent a complaint on 18th September, 1995 before the authorities that the DCIO, Palanpur, was not allowing him to join duty. The order of transfer was challenged by him before the CAT, alleging bias against Y in-charge of the office which was accepted by the CAT and the order of transfer was set aside. Thereafter, X joined duty on 11th December, 1995 and proceeded on leave for 11 days due to illness of his father.

“The X even avoided the basic training required for the job and asked JAD Ahmedabad to send all the training papers for his training at IB Training School, Shivpuri (Madhya Pradesh) to his residence at Ahmedabad. ‘An untrained officer is of no worth to the department’.”

After about seven years Inquiry Officer submitted a report on 28th April, 2003 and held that the charge has been proved against the X beyond all reasonable doubt, holding him guilty of violating Rule 3(1)(ii) and 3(1)(iii) of Central Civil Services (Conduct) Rules, 1964.

X had taken a specific defence that he was prevented from attending duty by Y who prevented him to sign the attendance register and also brought on record 11 defence exhibits in support of his defence that he was prevented to sign the attendance register, this includes his letter dated 3rd October, 1995 addressed to JD, SIB, Ahmedabad, receipts from STD/PCO office of Telephone calls dated 29th September, 1995, etc. but such defence and evidence were ignored and the Inquiry Officer held the X guilty.

Y, who was the complainant against the X about absence from duty, against whom the X has alleged malice and was the prime witness, refused to attend the inquiry.

A copy of the Inquiry Report was forwarded to the X who submitted a reply on 13th July, 2003 and raised following objections:

- (i) Y, who was the complainant against the X about absence from duty, against whom the X has alleged malice and was the prime witness, refused to attend the inquiry;
- (ii) the Report of the Inquiry Officer is based on statements of two prosecution witnesses, who have not proved the charges;
- (iii) the Inquiry Officer failed to discuss the evidence relied on by him;
- (iv) the attendance register for the relevant period was not produced and
- (v) the defence taken by him that he was not allowed to attend duty has not been dealt with by the Inquiry Officer.

“Rule 3 – General. (1) Every Government servant shall at all times-- (i) maintain absolute integrity; (ii) maintain devotion to duty; and (iii) do nothing which is unbecoming of a Government servant.”

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ANALYSIS

Q.1 Assuming yourself the Disciplinary Authority what action would you take?

Q.2 Has the Enquiry Officer given his findings correctly and timely?

Q.3 Which penalty would be appropriate in the circumstances?

Q.4 Whether X should be dismissed from service? If, yes, what would be the justification?

Q.4 Can X proceed to CAT, against the order of penalty passed by the Disciplinary Authority, if any?

Q.5 Any other comments.

CASE STUDY: 2

Tax incidence for supply of goods and services.

A unit of Military core has concluded a contract for supply of labour for Sweeping and Cleaning. The contract also includes providing catering services on a small scale as a part of the contract agreement. The aggregate of payment credited in pursuance of the contract during the financial year shall exceed Rs.320000/-. The firm is a body other than an individual or HUF.

The contractor is also supplying some materials towards performance of the contract, which are being separately shown in the tax invoice each month. The monthly charges for the supply of material, the value of which is separately shown in the invoice each month is Rs.3500/-. There are also other materials which are being provided by the contractor, the approximate monthly value of which is about Rs.4000/- but the same is not being mentioned separately in the invoice by the contractor.

The firm is also carrying out business of making and supplying furniture as part of its business. A payment of Rs.28000/- has already been made to the firm for supplying furniture as per requirements of the unit against specifications of the unit authorities. The firm has made and supplied the furniture from out of the materials including wood purchased from M/s Nilkant Timbre and Furnico.

The firm is registered in the state of Madhya Pradesh and the unit is also located in the state of Madhya Pradesh.

Calculate all the taxes to be deducted at source under different provisions of law.

CASE STUDY: 3

COMPLAINTS & GRIEVANCES

Govt. of India was constructing a Hydro-Electric Project in a hilly country at a height of more than 7,000 feet. The employees included the deputationists from GOI and from that country, besides others. Mr Tamang, Supervisor, Colony Division that looked after maintenance and furnishing of the project quarters among other things, was a deputationist from that country. Shri Behari, a UDC in the Financial Advisor's office had gone on deputation from GOI. Generally, both Behari and Tamang were polite and well behaved.

One morning while getting down from the project bus, there was a scuffle between the two and soon they came to blows. Both fell down the slope in the bushes and received minor injuries when others intervened and they were separated. As was expected, Tamang submitted a complaint to the XEN(Colony) and Behari to the AFA. In their complaints both charged each other of starting the trouble. Tamang also reported the matter to the local police. The XEN(Colony) and the AFA were holding equivalent posts and both were sticklers of rules. Besides, both were good friends. Both of them were on deputation from GOI.

According to Behari's complaint Tamang was a corrupt person and had no integrity. To justify he mentioned that Tamang had submitted 5 TA bills claiming fare by the luxury Toyota Bus, for his journey to Plingche which was on the plains, whereas every time he had taken a lift on some project jeep going down. (The public transport being erratic, costly, uncomfortable and time consuming, it was a very common practice that for going to Plingche people would take lift on any project jeep going down and still claim TA.) Behari further stated that since he had not yet passed the TA bills and had proposed to get them investigated, Tamang had taken revenge by beating him in public.

Tamang's complaint accused Behari of two things. (1) Behari had been pestering him to fix a sink in his kitchen. But since he was not entitled Tamang could not oblige. Therefore Behari took revenge and did not pass his long pending

TA bills. For the same reason he has now beaten him in public. (At the instance of the earlier XEN (Colony) who believed in pleasing everybody in FA's office, all other UDCs in Behari's office had a sink in their kitchen. The new XEN was, however, a different person and did not tolerate flouting of norms.) (2) Behari visited the residence of Tamang at odd hours requesting this favour or that and disturbed his wife particularly when he was not at home. (It was a common knowledge that Behari and Tamang's wife exchanged greetings with a smile every time they met on the street or in the market. Even Tamang's wife visited Behari's house too often. Behari's wife was sick and bed ridden for a long time).

The Sergeant of the local police rang up the Chief Engineer and sought to arrest Behari. CE promised to sort out the matter in two days. The Sergeant agreed to wait. The CE was disturbed, as a local national was involved. Further he did not want to see any policeman within the precincts of the project area even in matters concerning individual employees. So he asked his Technical Personal Assistant (TPA), who was of the rank of XEN to find a solution quickly.

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TASK:

Q.1 What were the factors responsible for the complaints of Behari and Tamang?

Q.2 How would you find a solution to the problem, if you were the TPA to CE?

CASE STUDY: 4

SUPPLY OF IRON SHEETS

GM OEF Kanpur placed a supply order on firm ' X ' for supply of 10000/ Iron Sheets. Cost of each iron sheet is Rs. 500/ per sheet. VAT charges @4% are to be charged extra as per condition in the Supply Order. The supply order was placed on 01-07-2009. Delivery to be completed within 6 months from this date i.e.before 31-12-2009. LD @ 00.5% of the price of stores which the contractor has failed to deliver within the period agreed for delivery in the contract, for each week or part thereof during which the delivery of such stores is in arrears, where delivery thereof is accepted after expiry of delivery period is to be charged. Total damages shall not exceed value of 10% of undelivered goods. There is also provision of Option Clause and Repeat Order Clause in the supply order.

The firm supplied the stores on following dates.

- 1)First lot 4000/ sheets was supplied on 30-09-2009.
- 2)Second lot of 4000/ sheets was supplied on 25-11-2009.
- 3)Third lot of 2000/ sheets was supplied on 27-03-2010.

EXERCISE (A)

- 1)What will be the amount of LD to be charged to the supplier ?
- 2)What will be the net payment due to the supplier after deducting LD ?
- 3)What should, ideally, be the mode of tendering in this case?
- 4)What should, be the minimum amount of Bid Security/EMD in this case?
- 5)What should be minimum amount of security deposit in this case?
- 6)What would be the cost of tender documents to be charged to the firm?
- 7)What will be the last date upto which delivery period can be extended?
- 8)If only option clause is exercised on 27-03-2010; how much quantity can be ordered under option clause.

EXERCISE (B)

Suppose the GM has ordered 3000/ Nos on 15-03-2010 under Option Clause and 2500/ Nos on 27- 03-2010 under Repeat Order clause , having supplied originally ordered quantity as on 31-12-2009, please state whether such procurement will be in order. Comment.