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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **W.P.(C) 2787/2012**

Date of decision: 27th March, 2017

USHA RANI SOOD ..... Petitioner
Through Mr. S.S. Pandey and Mr. H.S. Tiwari, Advocates.

versus

INDIAN AGRICULTURAL STATISTICS RESEARCH INSTITUTE AND ORS ..... Respondent
Through Mr. Gagan Mathur, Advocate.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE CHANDER SHEKHAR

SANJIV KHANNA, J. (ORAL)

Usha Rani Sood-the petitioner on death of her husband was appointed on compassionate grounds to the Group 'D' post of Supporting Staff Grade-I on 15th March, 1997 in the Indian Agricultural Statistics Research Institute.

2. By memorandum dated 1st May, 2006, enquiry proceedings were initiated against the petitioner as per Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 on the following articles of charge:-

> "LIST OF PARAGRAPHS OF CHARGES FRAMED AGAINST SMT. USHA RANI SOOD, S.S. GRADE-I, IASRI, NEW DELHI
>
> A complaint has been received that in year 2005, when Smt. Usha Rani Sood was posted as S.S. Grade-I in Indian Agricultral Statistics Research Institute, then she had

> taken Rs.1,00,000/- in a fraudulent manner from Sh. Rajender Kumar, Assistant (Storage Department) by giving him false assurance and her this behaviour is against the disciplines and office rules.
>
> Therefore, from the abovesaid act of Smt. Sood, it is proved that she is having lack of truthfulness/honesty in her which is undignified/shameful for an employee of Institute/Council. Therefore, this act of her is a clear violation of Rule 3 (1) (i) and 3 (1) (iii) of C.C.S. (Conduct) Rules, 1964 which applies on an employee of Institute/Council. "

3. The petitioner admitted the charge in writing before the Enquiry Officer on 27th July, 2006. In view of the admission, the inquiry officer did not proceed to record the statement of witnesses. He submitted his report holding that the petitioner as "guilty". The Disciplinary Authority passed an order of removal from service dated 23rd August, 2006. The appeal preferred by the petitioner was also dismissed by the Appellate Authority vide order dated 23rd September, 2006.

4. The order dated 23rd September, 2006 was challenged by the petitioner in OA No.2401/2006, which was partially allowed vide order dated 23rd May, 2007 with an order of remand to the Appellate Authority to reconsider and pass a speaking and reasoned order.

5. The Appellate Authority rejected the appeal vide order dated 29th June, 2007. The petitioner thereupon filed a review petition, which was also rejected by the order dated 11th April, 2008.

6. The contention of the petitioner is that the petitioner had not understood what was put to her by the Enquiry Officer. The petitioner had taken loan of Rs.1,00,000/- in cash from Rajender Kumar (Assistant-Store), the complainant. The petitioner relies upon the receipt dated 28th

June, 2006 executed by Rajender Kumar, affirming that he had been refunded Rs.9900/- and Rs.90,100/- was still due. Referring to the written note dated 27th April, 2006, it is submitted that the petitioner had admitted having taken Rs.1,00,000/- from Rajender Kumar, who used to work in the store. She had promised to refund the said amount in monthly instalments of Rs.1000/- each.

7. The petitioner, we notice, has admitted the allegations on three different occasions. The written note dated 27th April, 2006, states that the petitioner had taken Rs.1,00,000/- for securing a job for the complainant-Rajender Kumar's son. No doubt, there is a difference between what was accepted by the petitioner and what was recorded thereafter with the signatures of Kuldeep Kumar Hans, Vishal Lakhan Pal, Hayat Singh and Basant Kumar, but this would not be a cause or concern, for the said four officers along with the complainant-Rajender Kumar were cited as witnesses in the enquiry proceedings. The petitioner thereafter on 27th July, 2006 before the Enquiry Officer had specially admitted the charges levelled against her. The said order sheet, in English, records that the petitioner had received a copy of the charge sheet along with annexures, had understood the charges levelled against her, and that she had accepted the said charges. She had signed the order sheet in English.

8. The Tribunal in the impugned order has also referred to the letter dated 14th August, 2006, written by the petitioner herself in Hindi and has been reproduced in the impugned order. English translation of the same as filed by the petitioner is as under:-

> "Vide Office Memo 1 (S4)/2006 O.M.V. dated 3.8.2006 I was given a copy of the inquiry report, wherein I am asked

> to submit by written explanation. Therefore, in this regard, I have to state that the charges levelled against him are correct and I did not tell lie.
>
> Even prior to the inquiry, the office had asked me even then I had not told lie that at that time I had assured that I will return the amount taken from Rajender Kumar Ji.
>
> Accordingly I am paying Rs.1000/- per month to Shri Rajender Kumar Ji and till now I have paid him Rs.10,000/- and I will pay back remaining amount every month. This is the reason that I am an employee of lower category and according to my income, I will pay back the entire amount gradually.
>
> I request you I may be exonerated from the charges levelled against me so that I can pull on with my family because I am the only person to feed my family. I may be pardoned."

In the letter dated 14th August, 2006, the petitioner accepts having received a copy of the enquiry report and that she was asked to submit her written explanation. She did not dispute or challenge her admission as recorded by the Enquiry Officer. The petitioner in fact had once again accepted the charges levelled and admitted that they were correct. She had pleaded, that having not spoken a lie, she should be pardoned. She was the only one to feed her family.

9. In these circumstances, we do not accept the exculpatory "version" propounded by the petitioner. The petitioner was not misled to believe that she was pleading guilty as to the charge of having taken loan of Rs.1,00,000/- and that she had never accepted the charge that this amount was obtained to procure a job for the complainant's son. This alibi of the

petitioner, it is evident, is an afterthought and is not true. Her admissions speak and are declaratory. They amount to confession of guilt. In any case, we do not think that the findings recorded by the Enquiry Officer, Appellate Authority and the Reviewing Authority are perverse, which no reasonable man would have reached in the given facts.

10. Counsel for the petitioner has submitted that the punishment awarded is disproportionate. Reliance is placed upon on the order dated 19th July, 2016. We do not think that the punishment can be called and held to be disproportionate to the gravity of offence/charge. The punishment is not such which would merit interference on the doctrine of proportionality. The charge and misconduct is such which cannot be overlooked or treated as benign or innocuous. The argument of the counsel for the petitioner that Rajender Kumar was not proceeded against departmentally has to be rejected. He had suffered. In any case negative equality cannot be pleaded.

11. In view of the aforesaid discussion, the writ petition is dismissed without any order as to costs.

SANJIV KHANNA, J.

CHANDER SHEKHAR, J.

MARCH 27, 2017
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