

Central Administrative Tribunal, Principal Bench

Original Application No.116 of 2002

New Delhi, this the 15th day of November, 2002

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. A.P. Nagrath, Member (A)

Shri Mool Chandra,
S/o Shri (Late) Ram Jeevan
R/o C-274, Sanjay Gandhi Memorial Nagar,
Near Patel Chowk,
Badkhal Road, Faridabad,
(Haryana)

....Applicant

(By Advocate: Shri V.S.R. Krishna)

Versus

1. Union of India
Through its Secretary,
Department of Statistics,
Ministry of Statistics &
Programme Implementation,
Sardar Patel Bhawan, Sansad Marg,
New Delhi-1

2. Shri A.K. Sharma
(Enquiry Officer)
Director,
Department of Statistics,
Ministry of Statistics &
Programme Implementation,
Sardar Patel Bhawan, Sansad Marg,
New Delhi-1

....Respondents

(By Advocate: Shri K.C.D. Gangwani)

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

The applicant (Mool Chandra) is a Grade-III STS officer of Indian Statistical Service. He was served with a chargesheet on the assertions that he left his family consisting of his wife and two school-going children in December, 1995. Thereafter he has been living separately and not maintaining his family and in this process, he was forcing them into a situation of starvation. The charge levelled against the applicant was that he was living with another woman without getting judicial separation from his wife. These acts of the applicant were felt to be



unbecoming of a Government servant.

2. In the enquiry that ensued, it was found that the assertions that applicant was living with another woman are not established but the other facts referred to above have been so established. Keeping in view the findings referred to above that applicant was not maintaining his wife and two children and they were driven to the starvation level, the disciplinary authority on the advice of the U.P.S.C., dismissed the applicant from service.

3. Before us, at the time of arguments, it was pointed that no allegation against the applicant of having extra marital relations has been established and this fact is not in dispute. Taking clue from aforesaid, it was urged that the punishment of dismissal so awarded, is disproportionate to the dereliction of duty of the applicant.

4. We are conscious of the decision that ordinarily this Tribunal is not to go in the said controversy. It is within the domain of the disciplinary authority to consider the relevant facts and pass appropriate orders imposing a particular punishment in a disciplinary proceeding.

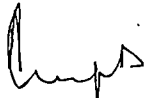
5. However the well known exception to the said rule is that if the punishment awarded is totally disproportionate to the alleged dereliction of duty, in judicial review there can be interference.


U Ag e

6. In the present case, the assertions against the applicant established were that he had not been maintaining his wife and children. After dismissal, he cannot now maintain his wife and children. When such is the situation, we have no hesitation in concluding that the punishment awarded is disproportionate to the allegations against the applicant that were established.

7. Accordingly we quash the impugned order and remit the case to the disciplinary authority to pass a fresh order in the light of what has been held above.

8. No opinion is expressed on the other contentions of the applicant for the present. O.A. is disposed of.


(A.P. Nagrath)
Member(A)


(V.S. Aggarwal)
Chairman

/dkm/