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Central Administrative Tribunal, Principal Bench

Original Application No.2531 of 2002

New Delhi, this the 7th day of April, 2003

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. S.K. Malhotra, Member(A)

Dr. R.H. Khan,
S/o late Shri Chhangur alias Salimullah,
Scientist E.1
Indian Institute of Petroleum,
P.O. IIP Mohkampur
Dehradun-248 005

.... Applicant

(By Advocate: Shri B.S. Mainee)

Versus

Union of India through:

1. The Director General,
Council of Scientific and
Industrial Research (CSIR),
Anusandhan Bhawan,
Rafi Marg, New Delhi-1
2. The Director,
Indian Institute of Petroleum,
P.O. IIP Mohkampur,
Dehradun-248 005
(By Advocate: None)

.... Respondents

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

There is no appearance on behalf of the respondents. In these circumstances, we are not having the advantage of hearing the respondents' learned counsel.

2. The applicant was facing disciplinary proceedings and was accused for plagiarism in as much as he clandestinely published a paper in synthetic communication which was a verbatim reproduction of the paper of Dr. Jitendra Khurana and Arti Sehgal published in J. Chemical Society, Chemical Communication, 1994. It was alleged against him that he failed to maintain absolute integrity and violated rule 3 of the CCS (Conduct) Rules, 1964. The applicant had accepted the charges levelled



against him.

3. The disciplinary authority had imposed the following penalty on the applicant:

"Now, therefore, the undersigned after taking into account the facts and circumstances of the case and acceptance of the offence by Dr. Khan himself, orders that the salary of Dr. R.H. Khan may be brought down to the minimum of the scale i.e. Rs.12000/- per month in the scale of Rs.12000-16500/- with effect from the date of issuance of these orders. His future increments will be in natural course i.e. annually."

4. Applicant preferred an appeal. The appellate authority modified the order of the disciplinary authority and passed the following order:

"I, therefore, order that the pay of Dr. RH Khan be reduced by seven stages from Rs.14625/- to the minimum of the scale i.e. Rs.12000/- in the time scale of pay of Rs.12000-16500/- for a period of five years with effect from date of issuance of the order of the Disciplinary Authority i.e. 20th June, 2001. It is further directed that Dr. RH Khan will not earn increments of pay during the period of reduction and that on expiry of this period, the reduction will have the effect of postponing his future increments."

5. Learned counsel for the applicant assails both the orders passed by the appellate as well as the disciplinary authority.


6. So far as the order passed by the appellate authority is concerned, the grievance raised is that the disciplinary authority had directed "his future increments will be in natural course i.e. annually." In other words,




the applicant was to earn future increments. The appellate authority instead had directed that he will not earn increments of pay during the period of reduction and that on expiry of the said period, reduction will have the effect of postponing his future increments. This certainly tentamounts to aggravating the penalty in this regard. No notice has been issued to the applicant while passing such an order. The applicant, therefore, rightly contends that the order passed by the appellate authority in this regard suffers from a legal lacuna. It cannot, therefore, stand scrutiny.

7. So far as the other contention that the disciplinary authority had passed the order in violation of Rule 11 of the CCS (CCA) Rules is concerned, indeed he has not mentioned and specified the period for which the applicant was to remain in the lower time scale of pay. The same has been taken care of by the appellate authority and the order of the disciplinary authority in this regard stands ^{merged} ~~modified~~ in that of the appellate authority. In this backdrop, we deem it unnecessary to remit the case back to the disciplinary authority.

8. In the circumstances, we only quash the order passed by the appellate authority, directing him to pass a fresh order in accordance with law. We make it clear that the appellate authority will re-consider the whole matter and nothing said herein would debar him from passing a fresh order including, if deemed appropriate, pertaining to the reduction in the scale of the applicant. O.A. is disposed of.


(S.K. Malhotra)
Member(A)


(V.S. Aggarwal)
Chairman

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