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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO.3022/2002

This the 30th day of September . 2003

HON'BLE SHRI V.K.MAJOTRA. MEMBER (A)

HON'BLE SHRI KULDIP SINGH. MEMBER (J)

S.D.Narang,
Hindi Translator Grade-I,
Office of DGM, Mausam Bhawan,
Lodi Road, New Delhi-110003.

... Applicant

(In Person)

-versus-

1. Shri S.N.Srivastava,
Deputy Director General Metereology (UI),
Office of Director General of Meteorology (UI),
G.O.I., I.M.D. Mausam Bhawan,
Lodi Road, New Delhi-3.

2. Director General of Meteorology,
Office of Director General of Meteorology,
G.O.I., I.M.D., Mausam Bhawan,
Lodi Road, New Delhi-3.

... Respondents

(By Shri M. M. Sudan, Advocate)

O R D E R

Hon'ble Shri V. K. Majotra, Member (A) :

Applicant has assailed the penalty of reduction by three stages from Rs.6800/- to Rs.6350/- in the time scale of pay of Rs.5000-150-8000 for a period of three years w.e.f. 1.10.2000. It was also directed that he would not earn increments of pay during the period of reduction and that on expiry of this period, the reduction will not have the effect of postponing his future increments of pay.

2. Applicant has been working as Hindi Translator Grade-I in the office of Deputy Director General, Meteorology. He has sought quashing of Annexure-A dated

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11.10.2000 and also order dated 7.11.2000 (copy not annexed). He has further asked for cancellation of OM issued to applicant since 4.4.1994 in lieu of non-issue of posting order till date.

3. Applicant argued the case personally. He raised the following contentions :

- (1) Applicant had been transferred but not given any posting in specific section of the office which is in violation of the provisions of FR 9(6)(b) and as such he had been waiting for his posting orders from 4.4.1994 to 6.6.2001. He stated that while respondents contend that applicant had been posted in the administration section, he refutes the same as he had not been given any posting orders in a specific section.
- (2) Applicant stated that the impugned order (Annexure-A) dated 11.10.2000 had been issued by Shri S.N.Srivastava, Deputy Director General of Meteorology who is not the competent authority either to initiate disciplinary proceedings or to pass final orders against applicant in disciplinary proceedings. as applicant is a Group 'B' officer. Applicant maintained that he had been appointed by the Director General of Meteorology and as such only he could initiate disciplinary proceedings or pass final orders in disciplinary proceedings against applicant. As such, the impugned orders have to be quashed.

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4. On the other hand, the learned counsel of respondents contended that the present application is not maintainable as applicant has sought plural remedies, which is impermissible under rule 10 of the Central Administrative Tribunal (Procedure) Rules, 1987. The contention of the learned counsel is correct as applicant, besides challenging the penalty orders in disciplinary proceedings against him, has sought cancellation of various office memoranda issued to him since 4.4.1994 "in lieu of non-issue of posting orders from 4.4.1994 to 6.6.2001". He further stated that the application is hit by principles of res judicata as applicant had, as stated on behalf of respondents, raised the issues of non-payment of salary, non-issuance of office order of posting, definition of "duty" in terms of FR 9(6)(b) etc. in several OAs and fora. Among others, it has been so held in order dated 18.9.2003 in OA No.1378/2003 filed by the applicant.

5. Vide Annexure-B dated 31.5.2000 applicant had been issued memorandum imputing the following misconduct requiring applicant to make a representation within ten days thereagainst, failing which "it will be presumed that he has no representation to make and orders will be liable to be passed against Shri Sukh Dev Narang, Hindi Translator Gr.I ex parte" :

"Statement of the imputation of misconduct or misbehaviour on which action is proposed to be taken against Shri Sukh Dev Narang, Hindi Translator Gr.I.

That the said Shri Sukh Dev Narang, while functioning as Hindi Translator Gr.I in the Admin. Section of the office of the Dy.

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Director General of Meteorology (Upperair Instruments), came to the office on 12 May, 2000 at about 1720 hrs. and entered the room of DDGM(UI) and misbehaved with him and other staff members present in the room, thereby causing disruption and dislocation of office work. That on that day Shri Narang was absent without any information or leave and came to the office at 1720 hours with the intention of causing nuisance and threatening officers and staff and he proceeded to fulfil his intention by his misbehaviour related above and caused a situation of preventing Govt. servants from fulfilling their official duties.

Shri Sukh Dev Narang, Hindi Translator Gr.I. by his above mentioned act exhibited gross indiscipline and his misconduct amounts to lack of devotion to duty and behaviour unbecoming of a Govt. servant and he thereby violated Rule 3(1)(ii) and Rule 3(1)(iii) of CCS (Conduct) Rules, 1964."

6. From the material placed on behalf of respondents, it is established that applicant did not make any explanation with regard to the charges. He only sent a fax message dated 3.6.2000 in which he had stated that OM dated 31.5.2000 was received by him on 2.6.2000 by post. A memorandum dated 6.7.2000 was sent at applicant's residential address at Rohtak, Haryana, again asking him to send his reply signed in original in ink acknowledging memorandum dated 31.5.2000 within seven days of the receipt of the memorandum as fax message dated 3.6.2000 could not be considered as a valid document. The Senior Post Master, Rohtak certified that registered post dated 31.5.2000 and 7.7.2000 had been delivered to applicant on 2.6.2000 and 12.7.2000 respectively. Applicant has not established that he submitted any representation in connection with the memorandum dated 31.5.2000. As applicant had not submitted any representation to memorandum dated

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31.5.2000 relating to disciplinary proceedings against him under rule 16 of the CCS (CCA) Rules regarding charged stated above. he was proceeded ex parte and the impugned order dated 11.10.2000 which was modified vide order dated 7.11.2000 was passed. Vide order dated 7.11.2000. the order dated 11.10.2000 was modified. The following final order had been passed :

"ORDER

In the light of the above and considering the fact that Shri Sukh Dev Narang, Hindi Translator Grade I, failed to submit any representation of the memorandum dated 31-05-2000. it is, therefore, ordered that the pay of Shri Sukh Dev Narang, Hindi Translator Grade I, be reduced by three stages from Rs.6800/- to Rs.6350/- in the time scale of pay of 5000-150-8000 for a period of three years with effect from 16 October, 2000. It is further directed that Shri Sukh Dev Narang, Hindi Translator Grade I, will earn increments of pay during the period of reduction and that on the expiry of this period, the reduction will not have the effect of postponing his further increments of pay."

7. In connection with the OM dated 31.5.2000 applicant had sent a letter to Shri S.N.Srivastava, Deputy Director General of Meteorology (Annexure A-5) telling him that he was "neither my competent authority nor disciplinary authority". Obviously, applicant did not make any representation against OM dated 31.5.2000 containing charges against applicant. The learned counsel of respondents maintained that imposition of penalty on applicant has been as per rules and procedure. As per rule 12(2)(b) of the CCS (CCA) Rules, any of the penalties specified in rule 11 may be imposed on a Government servant by the authority specified in this

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behalf by a general ² specific order of the President or where no such order has been made, by the appointing authority or the authority specified in the schedule in this behalf. Applicant had been holding the post of Hindi Translator Grade-I. As per Annexure R-15 which is a notification issued by the India Meteorology Department on 4.3.1991 relating to posts in India Meteorology Department. General Central Services Group "B" Gazetted and Non-Gazetted, Group "C" and "D", in its schedule it has been stated that Hindi Translator Grade-I is a Group "C" post for which Deputy Director General of Meteorology is the authority competent to impose minor penalties mentioned in rule 11. The learned counsel stated that even if the post had been upgraded to Group "B" non-gazetted, the Deputy Director General of Meteorology remained the competent authority for imposition of minor penalties under rule 11, and the Director General of Meteorology is the competent authority for imposing major penalties. The learned counsel stated that applicant had been imposed modified penalty as per OM dated 7.11.2000 and as such, the Deputy Director General of Meteorology has been the competent authority for imposing such penalties.

8. Vide Annexure A-5 it is established that applicant had received OM dated 31.5.2000 on 2.6.2000 vide which disciplinary proceedings had been initiated against him under rule 16 of the CCS (CCA) Rules. Annexure A-5 also establishes that applicant had questioned the competence of the Deputy Director General who had initiated the disciplinary proceedings against

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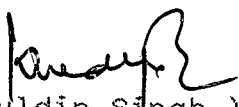
applicant. Obviously, he had not made any representation against OM dated 31.5.2000. In this background, the respondents were within their right to proceed against applicant ex parte and also imposed a penalty on him.

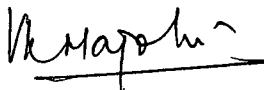
9. Annexure R-15 prescribes the appointing and competent authority to impose penalties, among others, on Hindi Translators Grade-I. From this it is clear that when Hindi Translator Grade-I was a Group 'C' post, Deputy Director General of Meteorology was the appointing authority competent to impose a penalty under rule 11. This also states that in respect of Group 'B' non-gazetted posts though the appointing authority is the Director General of Meteorology, minor penalties can be imposed by the Deputy Director General of Meteorology. Thus even when applicant maintains that he is a Group 'B' officer, the Deputy Director General remains the competent authority for imposition of minor penalties on Hindi Translator Grade-I (Group 'B'). The modified penalty dated 7.11.2000 is a minor penalty in terms of rule 11 of the CCS (CCA) Rules.

10. As applicant had raised the matter of non-issue of posting orders in other OAs and at various fora, it is not deemed necessary to deal with the same and it is also not relevant in the disciplinary proceedings against applicant where applicant had been afforded full opportunity to state his case.

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11. Having regard to the facts and circumstances of the case as discussed above, this OA must fail being devoid of merit. Dismissed as such. No costs.


(Kuldip Singh)
Member (J)


(V. K. Maiotra)
Member (A)

/as/