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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.2423 of 2002

New Delhi, this the 4th day of April, 2003

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

Shri Jagdev Singh
S/o Late Shri Sheo Singh,
R/o Village and P.O. Pelpa,
District: Jhajjar, Haryana.

Employed as

Shri Jagdev Singh
(Sepoy)
Enforcement Directorate,
Lok Nayak Bhavan, Khan Market, New Delhi-03.

...APPLICANT

(Applicant in person)

VERSUS

1. Union of India
Through the Secretary,
Ministry of Finance,
Department of Revenue,
North Block, New Delhi-01.
2. Director of Enforcement,
Government of India
Enforcement Directorate,
Lok Nayak Bhavan,
Khan Market, New Delhi-03.
3. Deputy Director of Enforcement,
Enforcement Directorate,
Lok Nayak Bhavan,
Khan Market, New Delhi-03.

...RESPONDENTS

(By Advocate : Shri Mohar Singh)

ORDER (ORAL)

In this OA, applicant impugns order of penalty dated 18.6.2001, order in appeal dated 27.2.2002 as well as revisional order dated 18.4.2002. He has sought quashment of all these orders with all consequential benefits.

2. Applicant while working as Sepoy was served with a minor charge-sheet under Rule 16 of the CCS (CCA) Rules, 1965 on the ground that he abused and made

castiest remarks to the fellow Sepoy and an enquiry was conducted against applicant. The enquiry officer has submitted his findings exonerating the applicant from all the three charges levelled against him.

3. In pursuance of Memorandum issued by the disciplinary authority, applicant preferred his representation. The disciplinary authority, disagreeing with the findings of the enquiry officer and without following due process of law, imposed the penalty of stoppage of two increments without cumulative effect. Applicant preferred an appeal against the disciplinary authority's order on the ground that the authority, who has exercised the jurisdiction of disciplinary authority was not competent to do so. Accordingly, an order was passed by the Deputy Director imposing upon the applicant the punishment of reduction of pay by two stages for a period of two years w.e.f.10.4.2002, against which an appeal preferred by the applicant, was rejected on 20.6.2002.

4. Applicant has appeared in person. In his pleadings among various grounds, it is stated that the disciplinary authority though disagreed with the findings of the enquiry officer by which the applicant was exonerated, ought to have afforded an opportunity of being heard and as such the orders passed are in violation of principles of natural justice.

5. On the other hand, respondents' counsel strongly rebutted the contentions of the applicant, but on specifically pointing out to him as to non grant of an

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opportunity to show-cause and recording of tentative reasons of disagreement, no satisfactory reply has come forth.

6. On careful consideration of the rival contentions, I find that the orders passed are not legally sustainable as although the enquiry officer has exonerated the applicant from the charges and in appeal when order of the disciplinary authority was set aside, the orders of the Deputy Director dated 18.4.2002 ordering the penalty though disagreement has been arrived at on the ground that the copy of the preliminary enquiry report was not considered by the enquiry officer including PE record, yet a show cause notice setting out tentative reasons has not been issued to the applicant and the decision has been taken on disagreement which is not in consonance with the principles of natural justice and fair play. Apex court in Yoginath Begde Vs. Union of India, 1999 (7) JT 62 deprecated this procedure and further held that such a procedure would deprive reasonable opportunity is contrary to law.

7. As the disciplinary authority has neither recorded the tentative reasons nor afforded an opportunity to applicant to show-cause against the disagreement arrived at, the orders passed are liable to be set aside. The other legal submissions of the applicant are left open.

8. In the result, for the foregoing reasons, OA is allowed. Orders of the disciplinary authority as well as appellate authority are set aside. However, this

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shall not preclude the respondents from proceeding further from the stage of furnishing the tentative reasons and show-cause notice, pertaining to disagreement to the applicant, if so advised, in accordance with law. No costs.

S. Raju

(SHANKER RAJU)
MEMBER (J)

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