

2

Central Administrative Tribunal, Principal Bench

Original Application No.2165 of 2002

New Delhi, this the 16th day of August, 2002

Hon'ble Mr. Justice Ashok Agarwal, Chairman  
Hon'ble Mr. M.P. Singh, Member (A)

Mohan Lal, Asstt. Engineer, (B/R)  
Age (B/R)-II, G.E. (Air Force)  
Chandigarh

.... Applicant

(By Advocate: Shri O.P. Kalshian)

Versus

Union of India & others, through

1. The Secretary,  
Ministry of Defence  
South Block, DHQ P.O.  
New Delhi-11
2. Engineer-in-Chief  
E-in-C's Branch  
Army Head Quarters  
Kashmir House, DHQ P.O.  
New Delhi-11
3. H.Q. Chief Engineer  
Southern Command  
Engineer's Branch  
Pune-411 001.
4. H.Q. Chief Engineer (Navy)  
26, Assaye Building, Kolaba,  
Mumbai-400 005.


.... Respondents

O R D E R (ORAL)

By Justice Ashok Agarwal, Chairman

Disciplinary proceedings were initiated against the applicant in respect of the following Articles of Charge:

ARTICLE-I

- "1. MES-310345 Shri Mohanlal, Supdt B/R I (now AE) while serving in GE Karanja as Supdt B/R Gde I during the period from 1986 to 1990 committed irregularities in that he failed to ensure proper execution of work for construction of storage and workshop facilities at NAD Karanja under CA No. CE BZ - 32 of 85-86 and accepted poor workmanship and bad concreting which resulted in seepage/leakage of roof slabs of main hall and AC plant.
- 

2. By his above act, Shri Mohanlal, Supdt B/R Gde I (now AE) has exhibited gross negligence and non-devotion to duty and thereby violated provisions of Rule 3 (1) (ii) of the CCS (Conduct) Rules, 1964."

2. Enquiry officer, by his report of 4.8.99, has held the aforesaid charge partly proved. The disciplinary authority by his order of 2.8.2000 (Annexure A-I), has imposed a penalty of reduction of his pay by three stages from Rs.9500/- p.m. to Rs.8900/- p.m. in the scale of Rs.6500-200-10500 for a period of one year with cumulative effect with a further direction that he will not earn any increment during the period of reduction and on the expiry of the said period, the reduction will have the effect of postponing his future increments of pay. Aforesaid order of the disciplinary authority was carried by the applicant in departmental appeal. Appellate authority, by his order of 18.3.2002, has maintained the aforesaid order of penalty and has dismissed the appeal. Aforesaid orders are impugned by the applicant by instituting the present OA.

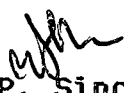
3. Shri O.P.Kalshian, the learned advocate appearing on behalf of the applicant has first contended that applicant is not guilty of the charge found proved against him. We are afraid we are not an appellate authority. It is not open to us to re-appreciate the evidence and come to a finding other than the one which has found favour with the disciplinary authority and hold the applicant not guilty. Aforesaid contention, in the circumstances, is rejected.

 4. Learned advocate has next contended that the

4

measure of penalty imposed upon the applicant is far too severe and deserves to be reduced. In our view, aforesaid contention also cannot be countenanced. The measure of penalty is a matter to be decided by the disciplinary authorities. The same cannot be interfered with by substituting <sup>a</sup>the penalty other than the one which has been imposed by the disciplinary authority unless the same is found to be wholly unsustainable in terms of the gravity of charge found proved against the delinquent. Aforesaid contention, in the circumstances, is also rejected.

5. Having regard to the aforestated state of things, we find that the present OA is devoid of merit. The same is accordingly dismissed in limine.

  
( M.P. Singh )  
Member (A)

  
( Ashok Agarwal )  
Chairman

/dkm/