

CENTRAL ADMINISTRATIVE TRIBUNAL - PRINCIPAL BENCH

Original Application No. 1413 of 2001

New Delhi, this the 2nd day of April, 2002

HON'BLE MR. V. K. MAJOTRA, MEMBER (A)

HON'BLE MR. KULDIP SINGH, MEMBER (JUDL)

(13)

Shri J.C. Sharma, Ex.AAO
A/c No. 8298968 - Retired Compulsorily
from the office of CDA (AF) New Delhi
R/o House No. 105/179, Subhash Puri,
Kanker Khera, Meerut Cantt.
(Through Shri V.P.S. Tyagi, Advocate &
Shri Atul Kumar, Advocate)Applicant

By Advocate: Shri V.P.S. Tyagi.

Versus

(1) Union of India (Through Secretary)
Ministry of Defence,
New Delhi.

(2) The Financial Adviser (Defence Service)
Government of India, Ministry of Defence,
(Finance Division)
New Delhi.

(3) The Controller General of Defence Accounts,
West Block-V,
R.K. Puram,
New Delhi.

(4) The Principal Controller of Defence
Accounts,
'6' Block,
New Delhi.Respondents

(By Advocate: Shri Mohar Singh)

ORDER

By Hon'ble Mr. Kuldip Singh, Member (Judl)

The applicant in this case has impugned order dated 22.8.2000 vide which his appeal against the order of the disciplinary authority had been rejected.

2. The facts in brief are that the applicant was proceeded departmentally on the allegation that while functioning as Assistant Accounts Officer during the period 27.5.97 to 29.10.97 the applicant had failed to discharge his duties effectively as provided for in

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Appendix-I in the Defence Accounts Department Office Manual Part I which led to authorisation of payment against 10 fraudulent claims to Shri Venkateswar Enterprises to the tune of Rs.2.23 crores approx. Thus the applicant had failed to maintain devotion to duty and has conducted himself in a manner unbecoming of a Government servant.

3. The applicant is also alleged to have failed to detect the fraudulent claims which have been floated against sanctions purported to have been issued by the Ministry of Defence whereas the contingent bills have not been preferred by officers of DGOS authorised to do so and that the appropriate procurement procedure relevant to the value of the stores procured has not been followed. Thus the applicant has failed to maintain devotion to duty and had acted in a manner unbecoming of a Government Servant.

4. A regular enquiry was held against the applicant and the Inquiry Officer found him guilty and the disciplinary authority vide impugned order imposed the punishment of compulsory retirement with 10% cut in pension for a period of 5 years and similar 10% cut in gratuity payable to the applicant. The applicant then preferred an appeal. The appellate authority after taking into consideration the Inquiry Officer's report and the order of the disciplinary authority and the grounds taken up by the applicant in his appeal did not find any justification to interfere with the order of the disciplinary authority.

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5. In this OA the applicant has challenged those orders passed by the disciplinary authority as well as by the appellate authority.

6. The applicant has taken up various grounds to challenge the OA but has confined only to the aspect of quantum of punishment and submitted that CCS (CCA) Rules, 1965 do not provide imposition of penalty or cut in pension and cut in gratuity along with penalties of compulsory retirement.

7. The applicant's counsel submitted that as per Rule 11 the penalties which could be imposed under the Head of Major Penalty is that of compulsory retirement. It does not give power to the disciplinary authority to impose the penalty of cut in pension or cut in gratuity so the penalty imposed upon the applicant is bad in law and the same is liable to be quashed.

8. The respondents in their reply submitted that the disciplinary authority is empowered to impose the punishment or to pass an order of compulsory retirement being a sole judge of the facts, which cannot be challenged before the Tribunal.

9. The respondents have also submitted that there is no bar in imposing the cut in pension or cut in gratuity simultaneously along with imposition of penalty of compulsory retirement since huge loss is caused to the Government due to the misconduct of the applicant.

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10. We have heard the learned counsel for the parties and gone through the records of the case.

11. The learned counsel for the applicant has referred to a judgment reported in JT 2001 (8) SC 617 entitled as Union of India and Another VS. P.D. Yadav. This judgment deals with Army Pension Regulation, 1971. As against this the learned counsel for the respondents referred to a judgment given by a Co-ordinate Bench in OA 1547/2001 in the case of C.S. Chandna VS. Union of India and Another which applies to the facts and circumstances of this case as well. In the case of Chandna Vs. U.O.I. (Supra) the applicant was held guilty on the charge of negligence in the performance of official duties which resulted in financial loss to the Government arising out of payment of fake bills as in the case of the present applicant. In that case also after the disciplinary proceedings were completed, the disciplinary authority passed a reasoned and speaking order whereby the disciplinary authority had imposed a penalty of compulsory retirement upon the applicant and similarly ordered a cut of 10% in the pension and 10% cut in gratuity and the same punishment has been awarded in this case and this Tribunal found the order to be justified and did not interfere with the same. In this case also we find that the charges are similar except that in the case of Chandna where also financial loss was incurred by the applicant to the tune of Rs.2.80 lakhs but in the case of the present applicant it is about 2.23 crores so we find that on the point of quantum of

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...punishment we are unable to differ with the judgment given by Court No.I on 3.7.2001 itself.

12. As regards the other grounds are concerned, though no other contentions are raised, but on perusal of record we find that on those grounds also no order for interference in this OA is called for.

13. In view of the above, OA has no merits and the same is dismissed. No costs.

Kuldeep Singh
(KULDIP SINGH)
MEMBER (JUDL)

W.K. Majotra
(W.K. MAJOTRA)
MEMBER (A)

Rakesh