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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

O.A. NO. 1470/2001

NEW DELHI THIS 2ND DAY OF APRIL 2002

HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

H.S. Grewal,
Supervisor,
Military Farm & Frieswal Project,
Grass Farm Road,
Meerut Cantt.

.....Applicant

(By Sh S K Gupta, Advocate)

VERSUS

1. Union of India,
through Secretary,
Min. of Defence,
South Block, New Delhi
2. Quarter Master general,
Army Headquarters,
DHQ, PO New Delhi 110001
3. Director,
Military Farm & Frieswal Project,
Grass Farm Road, Meerut Cantt.

.....Respondents.

(By Shri R.N.Singh, Advocate)

O R D E R (ORAL)

Challenge in this OA is directed against the orders dated 12. 10. 98 and 18. 9. 2000, passed by the disciplinary and appellate authorities against the applicant.

2. Heard S/Sh. S K Gupta and R N Singh learned counsel for the applicant and the respondents respectively.

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3. Proceedings were initiated for minor penalty on 5.11.96, against the applicant on the basis of some preliminary inquiry report which was not supplied to the applicant. Though he asked for certain documents, the same were not supplied to him, and in his defence statement he sought for an oral inquiry. Still the punishments of censure and recovery of Rs. 1039.34 were imposed on him on 12.10.98. Appeal filed by him was decided by a non speaking order, on 18.9.2000, after considerable delay and after the applicant filed OA No. 3/PB/98 before Chandigarh Bench. The applicant ^{is} assailing the above orders stating them to be ~~initiated~~ as a number of relied upon documents were not supplied, the appellate authority had issued the charge-sheet, two punishments have been ordered, no oral enquiry was held, the disciplinary authority had not considered the defence statement etc. Proceedings and punishments in the above scenario deserved to be set aside, pleads Sh. Gupta.

4. According to Sr. R N Singh, appearing for the respondents, the proceedings have been gone through correctly, appellate authority had not issued the charge sheet ^{and}, contents of the defence statements have been taken. In the circumstances of the case no oral inquiry was warranted or mandatory and the punishments imposed of Censure and partial recovery was only minimal penalties. In view of the above, there was no

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way, the impugned orders could be interfered with, pleads Sr. Sinha.

5. On careful consideration of the rival contentions and the written pleadings, I am convinced that the applicant has a case. In this case proceedings have been initiated against the applicant, on the basis of preliminary enquiry report contents of which have not been disclosed to him, his specific request for oral enquiry has not been heeded, his defence statement has not been considered and he has been imposed two different penalties - all these make the proceedings suspect in the eye of law. While under normal circumstances, oral inquiry is not mandatory in respect of minor penalty, when a specific request for the same is made by the applicant it should not have been rejected. Besides, supply of documents specifically asked should not have been denied. Similarly, censure and recovery of amount allegedly lost are not supplementary penalties but alternate penalties and they cannot be imposed together. Obviously these points have escaped the alteration of the respondents - both the disciplinary authority and the appellate authority - and the proceedings have therefore been vitiated. They have therefore to be quashed and set aside. At the same time the contention of the applicant that the appellate authority had issued the charge sheet has no basis.

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6. In the result, the OA succeeds and is accordingly allowed. The impugned orders by the disciplinary authority and the appellate authority are quashed and set aside. This does not, however, preclude the authorities from proceeding against the applicant, strictly in accordance with law and after fulfilling all the formalities. If the respondents decide to do so they shall initiate the proceedings from the stage of receipt of the reply of the applicant and supply of relied upon documents, within three months from the date of receipt of a copy of the order. No costs.

(Govindan S. Tampi)
Member (A)

Patwal/