

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2720/2001

New Delhi, this the 14th day of January, 2003

Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri V. Srikantan, Member(A)

Y.C.Srivastava
Jr. Engineer, CPWD Circle 7
II Nizamuddin Bridge, New Delhi .. Applicant
(Mrs. Meenu Mainee, Advocate)

versus

Union of India, through

1. Secretary
Ministry of Urban Development
Nirman Bhavan, New Delhi
2. Director General, CPWD
Nirman Bhavan, New Delhi
3. Chief Engineer II, PWD Zone II
MSO Building, New Delhi
4. Superintending Engineer
PWD Circle IV, 12th Floor
PHQ Bldg., New Delhi .. Respondents

(Shri H.K.Gangwani, Advocate)

ORDER(oral)

Shri Justice V.S. Aggarwal

The applicant is working as JE in Central Public Works Department. He has been served with the following Article of Charge:

"Shri Y.C.Srivastav while functioning as Junior Engineer in the Office of Executive Engineer, CPWD, Jabalpur during the period 1991 and 1992 was incharge of the work c/o Building for Regional Medical Research Centre, Jabalpur. He is responsible for not correlating the dimensions of conference hall, allowing execution of work on wrong lay out and not following specifications with regard to designing the form work for a span of more than 4.50 metres and allowing premature removal of centring and shuttering which resulted collapse of structure and loss of public image of department.

Shri Y.C.Srivastav, Junior Engineer, by his above acts exhibited lack of devotion to duty amounting to dereliction of duty thereby violating Rule 3(1)(ii) of CCS(Conduct) Rules, 1964."

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2. The Inquiry Officer has concluded that the Article of Charge is proved. Resultantly, disciplinary authority has imposed punishment of reduction of pay by two stages from Rs.7250 to Rs.6900 in the time scale of pay of Rs.5500-9000 for a period of three years from 1.10.99. It was further directed that applicant will not earn increments of pay during the period of reduction and that on the expiry of that period, the reduction will have the effect of postponing his future increments of pay.

3. Applicant preferred an appeal. Chief Engineer-II who appears to be the appellate authority has rejected the appeal vide his order dated 12.7.2000, which reads as under:

"Consequent upon the appeal made by Shri Y.C.Srivastava, Junior Engineer against Order of the S.E., PWD Circle IV conveyed vide No.15(415)/PWDC.IV/NCTD/E-I/804-C dated 20.10.99, the undersigned has gone through the appeal, Order of Disciplinary Authority, Report of Enquiry and the CRs and past record of the JE. After going through the above documents and the submissions made by Shri Y.C.Srivastava, Junior Engineer, it is seen that:

- 1) There were some discrepancies in the dimensions of the Conference Hall in the architectural drawings which has led to some confusion
- 2) Although public image of the Department (CPWD) has been lowered, there has not been any financial loss to public exchequer

Now therefore, after considering the above records and the facts and the circumstances of the case, I, I.M. Singh, Chief Engineer PWD Zone II have come to the conclusion that the penalty of one stage reduction in pay scale of Rs.5500-175-9000/- and withholding of 3 increments due on 1.10.99, 1.10.2000 and 1.10.2001 without cumulative effect on Shri Y.C.Srivastava, J.E. will be enough to meet the ends of justice.

Therefore, under powers entrusted vide Rule 24 of C.S.S.(C.C.A.) Rules, I, I.M. Singh order that the penalty of one stage reduction in pay scale of Rs.5500-175-9000/- and withholding of 3 increments due on 1.10.99, 1.10.2000 and 1.10.2001 without cumulative effect may be imposed on Shri Y.C.Srivastava, J.E. (Civil) accordingly."

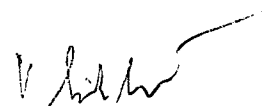
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4. Learned counsel for applicant asserts that the appellate authority has considered the past record and CR dossier of the applicant while disposing of the appeal. The factual position is that past service and confidential reports were not part of the Article of Charge. Otherwise also it is so because the Article of Charge extracted above does not refer to past record and confidential report. This being so, it is evident that extraneous facts have been taken into consideration referred to above by the appellate authority, which he could not do so in law.

5. Resultantly, on this sole ground, without expressing any opinion on the pleas taken, if any, present application is allowed. The order passed by the appellate authority (Chief Engineer II) dated 12.7.2000 is quashed. It is directed that the appellate authority shall consider the case afresh and pass an appropriate order preferably within six months of the date of receipt of a copy of this order without considering any other extraneous matters.

6. With the above observations, OA is disposed of. No costs.


(V. Srikantan)
Member(A)


(V. S. Aggarwal)
Chairman

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