

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O. A. No.3361/2001

New Delhi, this the 27th day of August, 2002

Hon'ble Shri M. P. Singh, Member (A)
Hon'ble Shri Shanker Raju, Member (J)

T. L. Gupta,
AC-1/117B, Vikaspuri,
New Delhi.

(By Advocate : Shri M. K. Singh)
Versus

....Applicant

Union of India, through

1. Secretary,
Ministry of Urban Development &
Employment,
Nirman Bhavan, New Delhi.
2. Director General (Works)
Central Public Works Department,
Nirman Bhavan, New Delhi.
3. Superintending Engineer,
PWD Circle III/NCOT
Okhla Flyover, Mathura Road,
New Delhi.
4. Anant Ram/ Inquiry Officer
C/o DG(W), CPWD,
Nirman Bhavan, New Delhi.
5. Chief Engineer, PWD Zone IV
MSO Building, New Delhi.
6. A. K. Verma, EE, PWD Dn. XI
Nirman Bhavan, New Delhi.
7. Secretary,
Union Public Service Commission,
Dholpur House, New Delhi.
(By Advocate : Shri George Paracken)

....Respondents

ORDER (oral)

Shri M. P. Singh, Member (A) :

The admitted facts of the case are that the applicant, a Junior Engineer in PWD, Delhi Administration (now working as Assistant Engineer), was issued with OM dated 12.10.1993 levelling the following charges against him:

Article I

That Shri T. L. Gupta, Junior Engineer while functioning as JE (Civil) in PWD Divn. No. XI (DA), New Delhi during the period from 20.7.76 to 8.1.81 was directed by the Executive Engineer, PWD Divn. No. XI (DA), New Delhi vide his letter No.8(2)/PWD-II/DA 2990-92 dated 1.5.80 to attend the PWD Circle III(DA), New Delhi for preparation of some important/urgent estimate and on completion of those estimates he was to report back to the AE, PWD Sub-Divn. No. IV/ PWD Divn. No. XI (DA).

(A)

Shri T. L. Gupta, JE (Civil) attended office of PWD Circle III (DA), New Delhi for three days on 2.5.80, 3.5.80 and 5.5.80 and thereafter neither attended office of PWD Circle III (DA) New Delhi nor office of the AE, PWD Sub-Divn. No. IV/ PWD Divn. No XI (DA) New Delhi and remained on unauthorised absence from duty upto 13.3.88.

Article II

That during the aforesaid period and while functioning in the aforesaid office Shri T. L. Gupta, JE (Civil) was directed to attend office of PWD Circle III (DA) for preparation of some important/urgent estimate vide letter No. 8(2)/ PWD-XI/DA/2990-92 dt. 1.5.80 by the Executive Engineer PWD Divn. No. XI. While working in the office of PWD Circle III (DA) New Delhi from 2.5.80 to 5.5.80 he had taken away some important papers of office of PWD Circle III (DA) New Delhi and he had not returned the same. He was directed by the EE, PWD DN. No. XI (DA) vide his letter dated 31.7.80 received by Shri Gupta on 5.8.80 to return the important papers taken away by him but the same were not returned by him. In the said letter he was also directed to explain the reasons for not attending the above said circle office, but the same was also not responded by him. The reminder issued vide letter dated 9.9.80 was also not responded by him.

2. On applicant's denying the charges, an enquiry was conducted into the charges levelled against him and the Enquiry Officer (EO) in his findings dated 29.6.1995 concluded that Charge I stood proved while Charge II could not be proved. A copy of the enquiry report was furnished to the applicant to submit his representation against EO's findings. The applicant submitted his representation vide letter dated 21.7.95. The disciplinary authority (DA) after taking into consideration the findings of EO and the representation made by the applicant, vide its order dated 8.12.95 held the applicant guilty of committing lapse of remaining on unauthorised absence from duty w.e.f. 6.5.80 to 13.3.88 resulting in break in service and imposed a penalty of Censure upon the applicant. Thereafter, the applicant appealed to the Chief Engineer, PWD, being the appellate authority, against the decision of DA. The appellate authority, after going through various aspects of the case, agreed with the decision of DA and rejected the appeal. Thereafter, the applicant submitted review

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(3)

petition to the Minister of Urban Development being the revisional authority against the decision of DA as well as AA. The revisional authority after taking into consideration the facts and circumstances of the case tentatively proposed to enhance the penalty from Censure to compulsory retirement. Thereafter UPSC was consulted which, after taking into account all other aspects relevant to the case, considered that the penalty of compulsory retirement proposed by the competent authority is not excessive.

3. Revisional authority on reconsideration of the whole case decided that the punishment awarded by the DA and confirmed by AA may be maintained. Thereafter, UPSC was requested to reconsider its advice and agree to the decision finally taken by the revisional authority. UPSC reiterated its earlier advice and advised to follow the procedure in DOP&T's OM dated 10.11.95 in case the revisional authority decides to disagree with the advice of the Commission. DOP&T, after considering the facts and circumstances of the case, acceded to the proposal of revisional authority for recording disagreement with the advice of UPSC and advised to take action to impose the penalty of Censure on the applicant and to modify the earlier order passed to the extent that words 'break in service' are substituted by the words 'dies non'. Thereafter, the revisional authority, in exercise of the powers conferred on him by Rule 29 (1) (a) of the CCS (CCA) Rules, 1965 ordered that the penalty of Censure awarded by the DA and confirmed by the AA shall be maintained and therefore modified the order passed by the DA to the extent that the words 'resulting in break in service' shall be substituted by the words 'dies Non'. Aggrieved by this, applicant has filed this DA seeking directions to the respondents to quash and set aside the charge-sheet dated 12.10.1993 issued against the applicant, report of EO dated 29.6.1995 in so far as EO holds that charge No.1 is proved against the applicant, order of DA dated 8.12.95 imposing penalty of Censure and orders dated 8.7.1996 and 6.12.2000




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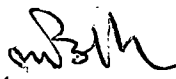
passed by appellate and revisional authorities respectively imposing penalty of censure and treating the period from 6.5.1980 to 13.3.1988 as 'dies non'.

4. Heard the learned counsel for the rival contesting parties and perused the records.

5. After going through the materials available on record, we find that the inquiry has been conducted in accordance with rules and by following the prescribed procedure. Applicant has been given adequate opportunity to defend himself and principles of natural justice have been duly observed by the respondents. Applicant was given a copy of the enquiry report and given opportunity to make representation. It is a settled legal position that the Tribunal cannot reappreciate the evidence adduced during the enquiry proceedings and also cannot interfere with the quantum of punishment imposed by the competent authority. In the instant case, inspite of applicant's long absence from duty for nearly 8 years, respondents have taken a lenient view to impose the minimum penalty of Censure. We also find that both DA, AA and revisional authority have passed reasoned and speaking orders, which do not suffer from any infirmity. We therefore hold that the action taken by the respondents in this case does not suffer from any illegality and no interference by the Tribunal is warranted.

6. In view of what has been discussed above, the present DA fails on merit and is accordingly dismissed. No costs.


(Shanker Raju)
Member (J)


(M. P. Singh)
Member (A)