

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No. 464/2001

New Delhi, this 5th day of February, 2002

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

H.P. Bhardwaj  
364, Pana Udyan  
Narela, Delhi

.. Applicant

(By Shri B.B. Raval, Advocate)

versus

Union of India, through

1. Secretary DARE  
Ministry of Agriculture  
Krishi Bhavan, New Delhi
2. Director General  
ICAR, Krishi Bhavan, New Delhi
3. Director, IARI  
Pusa, New Delhi

.. Respondents

(By Ms. Geetanjali Goel, Advocate)

ORDER

Applicant in this OA has challenged the order dated 6.3.95 passed by R-3 (disciplinary authority - DA, for short) imposing upon him the penalty of withholding of increments of pay for a period of three years without cumulative effect and also the order dated 28.2.2000 passed by R-2 (appellate authority) rejecting the appeal of the applicant against the said punishment.

2. Brief facts of the case are that the applicant was appointed as Junior Clerk on 4.4.77 in IARI. He was promoted as Senior Clerk on 12.7.85 and subsequently promoted to the post of Assistant on 15.5.1998. While he was working as Assistant in the Law Section, IARI, Pusa, he was served a charge-memo dated 19.9.98, which reads as under:



(5)

"Shri H.P.Bhardwaj while functioning as Assistant in NRL, IARI, New Delhi misbehaved with Shri T.K.Banerjee, Assistant, NRL in the office on 25.7.98.

Shri H.P.Bhardwaj was posted to work as Sr. Clerk in NRL vide Sr. Admn. Officer (P), office order No.4-3/97-P.II dated 9.10.97. After joining there, Shri Bhardwaj started misbehaving with the staff and also found to be shirker. He was issued a memo No.NRL/1033/2 dated 27.3.97 by the Project Director, NRL to improve his behaviour, otherwise suitable disciplinary action will be taken against him. On the basis of his undertaking dated 23.4.98 furnished to Project Director, NRL, a lenient view was taken and he was excused by the Project Director, NRL.

Shri Bhardwaj instead showing any improvement again misbehaved with Shri T.K.Banerjee, Assistant, NRL regarding some official work as is evident from the complaint dated 27.7.98 made by Shri T.K.Banerjee, Assistant, NRL.

Shri Bhardwaj did not pay any heed to the above instructions even to his own written undertaking and again misbehaved with Shri Banerjee on 25.7.98 with irrelevant talks and absurd statement in the presence of office staff and AAO, NRL."

The main allegation contained in the charge-memo was that the applicant was issued memo dated 27.3.97 (Annexure 5) by the Project Director, NRL to improve his behaviour, otherwise disciplinary action will be taken against him. It is stated by the applicant that he was never supplied a copy of the complaint dated 27.7.98 made by one Shri T.K.Banerjee as mentioned in the charge-memo. However, no such incident about misbehaviour with T.K.Banerjee had occurred. Applicant submitted a detailed reply on 28.9.98. DA without applying its mind and without perusal of the relevant records and appreciation of the acts of the case, arbitrarily and mechanically rejected the representation of the applicant. He also had not given any convincing reason but only relied upon 7 memos



which were totally irrelevant and had no bearing on the case of the applicant. Thereafter, he preferred an appeal on 12.4.99 which was also rejected on 28.7.2000 by the appellate authority. Aggrieved by this, he has filed this OA seeking directions to quash the aforesaid impugned orders.

3. Respondents in their reply have stated that the applicant has misbehaved with the staff particularly with T.K.Banerjee and was also an unwilling worker for which memos were issued to him from time to time from different officers i.e. Head, Agricultural Chemicals, AAO(P-II), Chief Admn. Officer, SAO, Entomology Division, Head, Entomology Division, PG School and PD, NRL to improve himself but he did not show any improvement. These memos were reflected in the charge-sheet. Despite his own undertaking to improve his conduct, he failed to do so. The penalty was imposed upon him by DA after due application of mind which was subsequently confirmed by R-2 after taking into account the facts of the case and the issues raised by him in his appeal. Moreover, the applicant was heard in person by the appellate authority. According to the respondents, applicant was imposed the aforesaid penalty after following the provisions contained in CCS(CCA) Rules, 1965. This OA is without merit and is liable to be dismissed.

4. Heard the contentions of the rival contesting parties and perused the records.

*MR*

(7)

5. During the course of the arguments, learned counsel for the applicant submitted that the applicant was also issued memos earlier regarding his misbehaviour and they were subsequently withdrawn as the allegation could not be substantiated. He also submitted that the same Project Director, NRL who issued the memo dated 27.3.98, also issued letter dated 7.4.98 appreciating the services of the applicant vide Annexure A-7. He further submitted that in the meantime, the applicant has also been promoted to the post of Assistant on 15.5.98. Had there been any serious and substantial charge against the applicant, respondents would not have promoted him to the higher post of Assistant.

6. On the other hand, learned counsel for the respondents submitted that the earlier memo was withdrawn when the applicant gave an undertaking on 23.4.98 to the effect that he would work smoothly and obey the instructions issued to him by PD/AAO from time to time (R-1). She also stated that memo dated 27.3.98 was issued to the applicant by the then PD, NRL, IARI for other misconducts for which he apologised by giving an undertaking dated 23.4.98. Despite this, the applicant did not improve himself and misbehaved with T.K. Banerjee.

7. In this case we find that the applicant had been charge-sheeted for imposition of minor penalty under Rule 11 of CCS(CCA) Rules, 1965. He was given due opportunity

*AB*

(18)

and he submitted a detailed representation against the charge-memo issued to him on 19.9.98. DA after taking into consideration the submissions made by the applicant in his representation, imposed the aforesaid penalty. The appellate authority also considered the appeal of the applicant and he was given a personal hearing. Thereafter, his appeal has been rejected by a speaking order. The applicant in his appeal has not taken any ground that he has not been supplied the relied upon documents or that he was not given due opportunity to defend his case effectively. It is well settled law that court/Tribunal cannot reappreciate the evidence and also cannot go into the quantum of punishment unless it shocks the conscience of the court. (see B.C.Chaturvedi V. UOI JT 1995 (8) SC 65). In this case, I find that respondents have followed the due procedure. The applicant was given reasonable opportunity to defend himself and the principles of natural justice have been duly observed by the respondents. Therefore, I do not want to interfere with the orders passed by the respondents.

2. In the result, I do not find any merit in the DA and the same is accordingly dismissed. No costs.

  
(M.P. Singh)  
Member(A)

/gtv/