

H9 (13)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.826/2001

Thursday, this the 4th day of April, 2002

Hon'ble Shri Justice Ashok Agarwal, Chairman
Hon'ble Shri V.K. Majotra, Member (A)

R.S. Sisodia
son of Shri N.S. Sisodia
R/O A-39, Pandara Road
New Delhi

..Applicant
(By Advocate: Shri Shyam Babu)

Versus

1. Union of India
through Secretary
Dept. of Animal Husbandry &
Dairying, Ministry of Agriculture
Krishi Bhavan,
New Delhi-1
2. Department of Food Processing
Industries through its Secretary
Panchsheel Bhavan,
August Kranti Marg
New Delhi-49
3. Union Public Service Commission
through its Secretary
Dholpur House, Shahjahan Road
New Delhi

..Respondents
(By Advocate: Ms. Harvinder Oberoi)

O R D E R (ORAL)

Hon'ble Shri V.K. Majotra, M (A):

Applicant has assailed punishment of withholding of one increment of pay for a period of one year without cumulative effect. In disciplinary proceedings against him only charge was that he had constructed the ground floor and the first floor of his house at Station Road, Sehore without the previous knowledge of the prescribed authority of his Department in contravention of the provisions of Rule 18 (2) of the Central Civil Services (Conduct) Rules, 1964.

(2)

2. Learned counsel of the applicant contended that the applicant has been punished for an entirely different charge than that levelled against him inasmuch as whereas it was alleged that he had constructed the ground and first floors of the house in question without the previous knowledge of the authorities of his Department, the charge proved was that he had not intimated to the authorities the factum of construction of the first floor by his mother which is violative of provisions of Rule 18 (2) ibid. Learned counsel brought to our attention G.I., M.H.A., Dept. of Per. & A.R., O.M. dated 11.9.1978 which requires that "Transactions entered into by the spouse or any other member of family of a Government servant out of his or her own funds (including stridhan, gifts, inheritance etc.), as distinct from the funds of the Government servant himself, in his or her own name and in his or her own right, would not attract the provisions of sub-rules (2) and (3) of Rule 18". The learned counsel stated that as the first floor has been constructed by applicant's mother from her own funds, as per the aforesated instructions, the applicant was not required to give prior intimation regarding construction from the funds of her mother. In this connection, the learned counsel referred to an intimation about house construction by ^{dt. 4.5.1992). b} his mother (Annexure-K Colly. informing that his mother Smt. Shiv Kunvar Sisodia had constructed a first floor house of 1350 sq.ft. with a cost of Rs.1.50 lakh on the terrace of his house with due permission of the competent authority. He had submitted another statement to his authorities that the cost of construction of the house on the first floor amounting to

175 Rs.1.50 lakh had been met by his mother through her own financial resources and that he had not incurred any expenditure from his own funds (Annexure K. Colly dt. 16.6.1992). b

3. On the other hand, the learned counsel of the respondents stated that as per rules, a Govt. servant is required to submit prior intimation in terms of Rule 18 (2) ibid regarding transactions of immovable/movable properties. The applicant had not done so and only, at the stage of submission of written brief, he had mentioned that his mother had constructed the first floor on his plot.

4. The perusal of the charge held proved against the applicant states that he had constructed the ground and the first floors of his house without the previous knowledge of the prescribed authorities of his Department. So far as the construction on the ground floor is concerned, the applicant had been accorded sanction vide Annexure-C Colly. dated 25.8.1983 for construction of a house on the plot ~~and~~ ^{at} Station Road, Sehore at an estimated cost of Rs.1.50 lakh. Again, vide another OM dated 10.1.1986 at Annexure-C Colly., the sanction was accorded to him to construct the house at his plot at an estimated cost of Rs.1.80 lakh. These two sanctions, in our view, meet the requirement of prior permission regarding construction of the house. However, so far as construction of the first floor is concerned, the applicant had, vide Annexure-K Colly., intimated the authorities regarding construction of the first floor with a cost of Rs.1.50 lakh by applicant's mother by her

B6

(4)

own financial resources. We are in agreement with the learned counsel of the applicant that such construction by applicant's mother from her own financial resources does not attract the provisions of sub-rule (2) and (3) of Rules 18 in terms of OM dated 11.9.1978 cited above.

5. Having regard to the reasons recorded and discussions made above, we hold that the respondents have not established the charge contained in Article (ii) against him and an entirely different charge which has not been levelled against the applicant in the charge-sheet has been stated to have been proved against the applicant despite the fact that the applicant is not required to submit any prior intimation to the authorities regarding transactions made by applicant's mother from her own financial resources in connection with construction of first floor on the terrace of the applicant's house in Sehore. Accordingly, impugned order dated 2.8.2000 (Annexure-A) and order dated 31.1.2001 (Annexure-B) relating to the aforesated punishment on the applicant are quashed and set aside with consequential benefits, if any.

6. The present OA is allowed in the aforesated terms. No costs.

V.K.Majotra

(V.K.Majotra)
Member (A)

Ashok Agarwal
(Ashok Agarwal)
Chairman

/sunil/