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CENTRAL ADMINISTRATIVE TRIBUNAL : PRINCIPAL BENCH

MA 796/2001  
in  
OA 981/2001

New Delhi, this the 23rd day of August, 2002

Hon'ble Sh. Govindan S. Tampi, Member (A)  
Hon'ble Sh. Shanker Raju, Member (J)

Faqir Chand  
S/o Sh. Tika Ram  
R/o E-314, Khyala Colony  
New Delhi.

...Applicant

(By Adv. Sh. A.K.Behra)

Vs.

1. Union of India  
through The Secretary  
Ministry of Home Affairs  
North Block, New Delhi - 110 001.

2. Lt. Governor  
NCT of Delhi  
Raj Bhawan, Rajpur Road  
Delhi - 110 054.

3. Chief Secretary  
Go<sup>t</sup>. of NCT of Delhi  
Players Building,  
Indraprastha Indoor Stadium  
Delhi.

...Respondents

(By Adv. Mrs. Renu George)

ORDER (ORAL)

By Hon'ble Sh. Govindan S. Tampi,

This OA challenges the orders dt. 26-6-98, 4-5-2000  
and 20-4-00 passed by the respondents in the disciplinary  
proceedings against the applicant.

2. Heard Sh. A.K.Behra, appearing for the applicant  
and Mrs. Renu George, 1<sup>d</sup>. counsel for the respondents.

3. The applicant, an Upper Division Clerk (UDC)  
under the respondents was proceeded against in a charge-  
sheet. In the enquiry which followed the denial of charges  
the Enquiry Officer (I.O.) found the charges against the  
applicant as not proved. However, the Disciplinary  
Authority by a note of dis-agreement deferred from the

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findings of the I.O. and inspite of the applicant's representation, imposed on the applicant, the penalty of reduction to the minimum of his scale of pay for a period of three years. The same has been confirmed in the appellate order dated 20-4-2000. Hence this OA.

4. The grounds raised in the OA, fully reiterated by the 1d. counsel Sh. A.K. Behra during the hearing are that the disciplinary authority had disagreed with I.O. on the basis of certain opinion expressed basing on conjectures and surmises. There was no objective consideration and assessment of the relevant facts. This was a case of no evidence. It has not been proved that the applicant had infact received the letter from the superior authorities, containing directions which the disciplinary authorities felt the applicant has violated. The disciplinary authority had only presumed matters and indicated in a vague manner that the applicant had acted incorrectly and come to a perverse finding that the IO's report was not correct and punished the applicant. The appellate authority had confirmed the same. In penal proceedings decisions cannot be taken on conjectures and surmises and what has been done by the respondents was improper and it, therefore, deserved to be set aside, he pleads.

5. Mrs. Renu George, 1d. counsel for the respondents states that the respondents' action was correct and that in the circumstances of the case the inference drawn by the disciplinary authority was proper and correct. The applicant's plea that disagreement note issued by the disciplinary authority was wrong, cannot at all be sustained, she urges.

6. We have carefully considered the matter. The plea raised by the applicant is that the note of disagreement issued by the disciplinary authority differing from the findings of the IO was not based

on any objective assessment of the situation. Perusal of the disciplinary authority's order confirms the above. It gives the impression that the disciplinary authority was only interested in penalising the applicant, whatever be the circumstances. It is indicated in the note of disagreement that available documentary and circumstantial evidence showed that the applicant had received the concerned letter under diary No.172 dated 18-1-85 but he failed to act as directed, but the note does not specify the said evidence. Obviously, therefore, the note of disagreement was not based on facts and the decision taken on the basis of such a note was faulty and is liable to be set aside. When the disciplinary authority's order fails, the appellate authority's order confirming the same has to follow suit.

7. In the above view of the matter, the OA succeeds and is accordingly allowed. The impugned orders dt. 26-6-98, 4-5-2000 and 20-4-2000 are quashed and set aside with full consequential reliefs to the applicant. No costs.

Q  
S. Raju  
(Shanker Raju)  
M (J)

vksn

(Govindan S. Tampi)  
M (A)