

(16)

Central Administrative Tribunal
Principal Bench
....

BA No. 247/95 in

OA No. 1717/94

New Delhi, this the 5th day of Feb., 1996

Hon'ble Shri A.V. Haridasan, Vice-Chairman (J)

Hon'ble Shri K. Muthukumar, Member (A)

Naresh Kumar Sharma,
son of Late Rich Pal Sharma,
R/o 1/4837, Balbir Nagar Extn.,
Gali No. 12, Shahdara, Delhi-32.

...Review applicant

(By Shri S.K. Gupta, Advocate)

Versus

Union of India through

1. The Secretary,
Ministry of Defence,
South Block,
New Delhi.
2. Deputy Secretary (Establishment),
Ministry of Defence,
C-II, Hutments, Dalhousie Road,
New Delhi.
3. Enquiring Authority,
through Deputy Secretary (Estt.),
Ministry of Defence,
C-II, Hutments, Dalhausi Road,
New Delhi.
4. Shri B.P. Singh,
Under Secretary (Estt.),
Ministry of Defence,
C-II, Hutments, Dalhausie Road,
New Delhi.

...Respondents

(By Shri B. Lall, Advocate)

Contd...2p/-

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ORDER (ORAL)

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By Hon'ble Shri A.V. Haridasan, Vice-Chairman(J)

This review application is directed against the final order passed in O.A. No. 1717/94. According to the petitioner the order is erroneous for two reasons i.e. (i) while the evidence adduced in the enquiry does not disclose that the applicant had been rude in his behaviour towards his senior, the Enquiry Officer and the disciplinary authority held the entire charge No. 3 proved. This aspect of the case has not been gone into in the judgement; (ii) the applicant has taken a plea that the penalty imposed on him for charge No.3 amounts to a double jeopardy as for the unauthorised absence of 4 days mentioned in charge No. 3, he had already been awarded forfeiture of service by order passed under FR 17(i) and 17A(iii) and this aspect has not been considered in this order.

We heard Shri S.K. Gupta counsel for the applicant and Shri B. Lall counsel for the respondents.


On a careful scrutiny of the material papers and the original application, the order sought to be reviewed and hearing the learned counsel on either side, we do not find that there is any circumstances which warrant a review of the order. About the correctness of the findings on article of charge No.3, the review applicant had a case, inter-alia, that there is no evidence to establish that he was rude in his behaviour but the Bench by its order rejected that contention. If the


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applicant is aggrieved by that decision, the remedy available to the applicant is to move the Hon'ble Supreme Court with a Special Leave Petition and review application is not the remedy available to him. The next ground taken by the applicant for review of the order is that as action under FR 17(i) and 17A(iii) has already been taken for unauthorised absence for four days, this should not have formed a part of charge as the same would amount to double jeopardy. The right of the competent authority to take action under FR 17(4) is without prejudice to the right to take disciplinary action under CCS(CCA) Rules. Therefore, this does not amount to double jeopardy. Therefore, there is no merit in this contention.

We are convinced that the judgement has been rendered after careful consideration of the rival contentions and that there is no error apparent on the face of the record or any other similar circumstances which would warrant a review.

In the result the review application is dismissed. However, before parting with the R.A. we would like to observe that in case the applicant is aggrieved by the order passed under FR 17(i) and FR 17A(iii), it is open to the applicant to seek his remedies in accordance with law, rules and instructions.


(K. Muthukumar)
Member (A)


(A.V. Haridasan)
Vice-Chairman (J)