

Central Administrative Tribunal
Principal Bench

O.A. No. 1634 of 1995

New Delhi, dated this the 13th January, 2000

Hon'ble Mr. S.R. Adige, Vice Chairman (A)
Hon'ble Mr. Kuldip Singh, Member 9J)

Shri A.K. Verma,
S/o Shri Behari Lal,
A/c No. 8312814,
R/o 10, Kagji Bazaar,
Meerut City,
Meerut, U.P. Applicant

(None appeared)

Versus

1. Union of India through
Secretary,
Ministry of Defence,
Finance,
South Block, New Delhi.
2. Controller General of Defence Accounts,
West Block V, R.K. Puram,
New Delhi.
3. Financial Adviser (D.S.),
Ministry of Defence,
Finance,
South Block, New Delhi.
4. Shri Narendra Gupta,
Inquiry Officer,
Jt. Controller of Defence Accounts,
Central Command,
Meerut U.P. Respondents

(By Advocate: Shri A.K. Bhardwaj)

ORDER (Order)

BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Applicant impugns Respondents order dated 28.9.93 imposing a penalty of reduction in pay to the stage of Rs.1275/- p.m. from the stage of Rs.1325/- in the scale of Rs.950-1500 for a period of one year during which period applicant would not earn increment, but without cumulative effect.

2. Applicant also impugns the appellate order dated 12.8.94 (Annexure A-XI) rejecting the appeal.

3. None appeared for applicant when the case was called even on the second call.

4. We note that the O.A. had been dismissed earlier for default on 7.9.99 but was thereafter restored. The case had come up on 7.1.2000 on which date none appeared on behalf of applicant even on second call. On that date it was ordered that if applicant failed to appear on the next date the O.A. would be summarily dismissed. Today when the case came up for hearing none appeared for applicant even on second call. Shri A.K. Bhardwaj appeared for respondents and has been heard.

5. This is an old case of 1995 and has been listed at Sl. No. 6 in the list of regular hearing cases in today's cause list. Moreover, there is a superscription on the top of the list that cases of 1996 and earlier would not be adjourned. Under the ^{air} circumstances, we are disposing of this O.A. after perusing the available pleadings and after hearing Respondents' counsel Shri Bhardwaj.

6. Applicant was proceeded against departmentally on the charge that while serving in the Controller of Defence Accounts, Central Command, Meerut ~~in the~~ he as well as other charged officials failed to exercise the prescribed audit

check in the discharge of their duties which facilitated commission of embezzlement of public money exceeding Rs.22 lakhs. Applicant along with others were jointly proceeded against. The Enquiry Officer in his detailed report dated 6.3.92 (Annexure A VI) held the charge against applicant to have been partially proved. A copy of the enquiry report was furnished to applicant for representation if any. Applicant submitted his representation dated 8.6.92 (AnnoA-7) and after considering the same the Disciplinary Authority passed the impugned order dated 28.1.93 imposing the penalty of reduction in pay, which was upheld in appeal.

7. The first ground taken by applicant in his O.A. is non-supply of certain documents which he demanded during the course of enquiry. The appellate authority in his order dated 12.8.94 with respect to this particular ground which had also been raised before him, has ~~not~~ ^{reached} his conclusion that except for ~~the~~ ^{two} the documents which were missing and therefore not available, all documents demanded were inspected by applicant. Applicant has not indicated which specific document which he demanded and was available, was not supplied to him, as a result of which he was gravely prejudiced in the course of enquiry as to vitiate the disciplinary proceedings. ~~hence~~ ¹ This ground fails.

8. The next ground taken is that Shri B.M. Gupta, Section Officer of the same Accounts Section, who was also charged along with applicant, was discharged and released from the charges after giving

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him the benefit of doubt, whereas applicant had been held guilty of charges. Merely because Shri Gupta was exonerated of the charges does not necessarily mean that applicant would also be exonerated of the misconduct. Under the circumstances, exoneration of Shri Gupta does not help the applicant. Therefore, this ground also fails.

9. The next ground taken by applicant is that the I.O. failed to appreciate that applicant is merely a clerk, and the duty to bifurcate the allotted amount was of the superior officers, and not of himself. As applicant was assisting the superior officers while functioning as clerk and both were charge sheeted and the enquiry was held against both applicant cannot be absolved of his own responsibility in the matter. This ground also fails.

10. Next it has been contended that the matter had been referred to the C.B.I. for investigation, and the applicant also appeared and was examined before C.B.I., but the C.B.I. neither arrived at any conclusion nor had submitted its report. However, non-submission of the report by C.B.I. does not imply that applicant was exonerated of the charges, if the same has been partially established during the course of the present D.E.

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11. The next ground taken is that the report of I.O. is against the principles of natural justice but nothing has been pointed out to us to lead us to conclude that applicant was not given full opportunity to defend himself.

12. In the light of the above, we see no reason to interfere in the impugned orders. The O.A. is dismissed. No costs.

Kuldeep
(Kuldeep Singh)

Member (J)

S.R. Adige
(S.R. Adige)
Vice Chairman (A)

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