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Central Administrative Tribunal, Principal Bench

Original Application No.1594 of 1996

New Delhi, this the 29th day of March, 2000

Hon'ble Mr. Justice Ashok Agarwal Chairman
Hon'ble Mr. V.K. Majotra, Member (Admnv)

Kishan Chand Daftri S/o Shri Khajan Singh,
R/o Village Dabra, P.O. Karona, Thana Dadri,
Distt. Ghaziabad. - Applicant

(By Advocate Shri G.S. Beqrar)
Versus

1. The Union of India, through the Secretary, Ministry of Chemicals and Fertilizers, Shastri Bhawan, New Delhi.
2. The Director (A), Ministry of Chemicals and Fertilizers, Shastri Bhawan, New Delhi.
3. Sh. Mathew Palantton, Service through Under Secretary (Establishment) Ministry of Chemicals and Fertilizer, Shastri Bhawan, New Delhi. - Respondents

(By Advocate -None)

O R D E R (Oral)

By Justice Ashok Agarwal, Chairman.-

A penalty of compulsory retirement imposed on the applicant in disciplinary proceedings conducted against him is impugned in the present OA. ^{The charge pertained to} ~~for~~ unlawful absence from duty for the different periods ranging from January, 1987 to April, 1993 ~~without permission.~~

2. The applicant was placed under suspension with effect from 17th August, 1993. A charge sheet dated 12th November, 1993 was served upon him. The enquiry officer by his report dated 13th December, 1994 has found the aforesaid charge proved against the applicant. The disciplinary authority by an order passed on 9th March, 1995 has accepted the aforesaid finding of the enquiry officer and has imposed a penalty of compulsory retirement. The appellate authority has affirmed the aforesaid order of the disciplinary authority by an order passed on 6th June, 1995. The revisional authority

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by an order passed on 16th December, 1995 has held that the penalty of compulsory retirement imposed on the applicant is appropriate and has confirmed the same. The aforesaid orders are sought to be impugned in the present OA.

3. Shri G.S.Beqrar, learned counsel in support of the OA has drawn our attention to orders passed on 26th August, 1988, 8th January, 1991 and 23rd January, 1992 (Annexure-A-6 colly.) and has contended that applicant's absence for the various periods mentioned in the aforesaid orders have been regularised by grant of leave. According to Shri Beqrar, the disciplinary proceedings could not have been initiated and impugned order of penalty could not have been passed, for the very same periods which have been regularised by the aforesaid orders.

4. We have checked the periods for which absence has been regularised by grant of leave. The same are entirely for ~~a~~ different periods than the periods of absence which ^{are} ~~is~~ made the subject matter of the disciplinary proceedings. Aforesaid contention is, therefore, rejected.

5. Shri Beqrar has further pointed out that whereas the applicant was initially engaged as Chaprasi on 3rd September, 1989, he had successfully cleared the efficiency bar on 1st March, 1991 and has thereafter been promoted as a Daftri on 9th November, 1992. In the circumstances no penalty can be imposed for the absence during the period prior to his promotion. As far as the aforesaid contention is concerned, the respondents have pointed out that the applicant was permitted to cross

the efficiency bar with retrospective effect from 1st March, 1991 by an order passed in January, 1993. Similarly, the applicant was granted promotion keeping in view welfare of the applicant. He was warned several times for his unauthorised absence during the period 1987 to 1993. Despite this the applicant showed no signs of improvement and continued his habits of remaining away from duties without prior permission and behaving in arrogant and insolent manner. If one has regard to the aforesaid facts, no capital can be made on the basis of the applicant crossing the efficiency bar and being promoted.

6. As far as the merits of the matter is concerned, three witnesses were examined during the enquiry. The applicant has not ^{cross-} examined any one of them. On the contrary, he has not even disputed the charge of his unauthorised absence without permission. He has also confessed to his misbehavioural attitude. Ample opportunity was offered to the applicant in the disciplinary proceedings. Principle of natural justice has fully been met.

7. In the circumstances, we find that both in respect of finding of guilt, as also the imposition of penalty, no interference ^{is called for} ~~can be done~~ in the present OA. The present OA is accordingly dismissed. No order as to costs.

(Ashok Agarwal)
Chairman

(V.K. Majotra)
Member (Admnv)