CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA 1903/96

New Delhi this the 16th day of May, 2000

Hon'ble Smt.Lakshmi Swaminathan, Member (J)
Hon'ble Shri V.K.Majotra, Member (A)

Karma Veer,
Section Officer,
Law Section, Room No.424,
I.C.A.R. Krishi Bhawan,
New Delhi-110001

and Residing at

G-309, Ist Floor,
Secter, 22 NOIDA. .. Applicant

(Present in person)

Versus

1. Union of India through the
   Director General, ICAR, Krishi Bhawan,
   New Delhi-1
2. The Secretary, ICAR,
   Krishi Bhawan, New Delhi-1
3. Dr. G.C.Srivastava,
   Former Secretary, ICAR,
   Krishi Bhawan, New Delhi-1 .. Respondents

(By Advocate Shri R.S. Aggarwal)

O R D E R (ORAL)

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

The applicant had initially approached the Hon'ble Supreme Court in WP No. 396/96 which was dismissed on 9.8.1996 with liberty to the applicant to agitate the matter before the Tribunal. In this O.A. the applicant has impugned the orders and Memo.(Annexures A-1, II and III). Annexure A-II order dated 25.8.95 has been passed by the Secretary, Indian Council of Agricultural Research(ICAR) whereby a penalty of stoppage of two increments for a period of two years with cumulative effect has been imposed on the applicant. Vide Annexure A-1 order dated 28.2.1996 applicant's appeal against the Annexure A-2 order has been dismissed by the DG,ICAR confirming the penalty order dated 25.8.95 passed by the disciplinary authority. By Annexure A-III Memorandum dated 4.7.91, an enquiry was initiated against the applicant under Rule 14 of the Central Civil Services

(Classification Control and Appeal)(CCS/CCA) Rules, 1965 as extended to the ICAR employees. The applicant has claimed that the Enquiry Officer, Disciplinary authority and the Appellate authority have not considered his defence and imposed the punishment in question merely on the allegation of conjecture and surmises. According to him, the punishment has been imposed for alleged violation of the instructions of an officer, namely, Dr.O.P. Bhatnagar who was not competent to pass such instructions. He had been asked to compile the basic data but there is no evidence about the availability of the basic data for compilation. According to applicant, such compilation would have taken about six months time.

2. The applicant was appointed as Assistant on 25.2.1983 in the ICAR. On being successful in the Limited Departmental Competitive Examination, 1990 for the post of Section Officer, he was appointed as Section Officer on 2.1.1991. ~~Since~~ Dr.O.P.Bhatnager was not his Branch Officer. On 13.3.1991, the then DDG(Edn.) and the then Director(Fin.) had asked the applicant to complete the grant release work for 1990-91 in respect of the ICAR projects on or before 27.3.1991, the last working day of the financial year, 1990-1991. However, on 15.3.1991, Dr.O.P.Bhatnager, the then Principal Secretary(Edn.) came to the applicant and asked him to go the Accounts -I-Section at Krishi Bhawan, leaving all work in Education-III and compile State-wise and Scheme-wise the expenditure figures since 1985 in respect of all the ICAR projects then being handled by the Education-III Section of which the applicant was then the Section Officer. The applicant told him that he and his Section were not free due to the aforesaid order of the then DDG(Edn.) to complete all the grant release work for the financial year 1990-91 by 27.3.1991. Dr.O.P.Bhatnager complained to the then DDG(Edn.) alleging refusal of the applicant to obey his orders to compile the expenditure figures. The applicant's clarification was sought by the then DDG(Edn.) and he desired that these figures be immediately sent to the concerned P.I.M. Section of the ICAR at the Krishi Bhawan, New

Delhi. According to the applicant the Scheme-wise expenditure figures ~~were~~ then readily available were sent to the P.I.M.Section, ICAR Krishi Bhawan, New Delhi. He sought permission to do the allocated work in April, 1991 after the grant release work was over in March, 1991. However, the applicant did not hear anything from the then DDG(Edn.) in this regard. Thereafter the applicant was issued charge sheet. He has alleged that all the witnesses are the departmental employees whose vested interests are under the control of the respondents/authorities.

3. After closure of the examination of witnesses and cross examination, the Presenting Officer filed his brief and the applicant gave his rejoinder on 6.5.94 to the Enquiry Officer. The applicant has alleged that he was not supplied relevant files on the subject; that he was not assigned work of compilation by the competent authority; that the figures were not readily available in Accounts-II; that the Enquiry officer had relied on conjecture and surmises. The disciplinary authority has relied upon the findings of the Enquiry Officer in gross violation of the principles of natural justice. The applicant has claimed that his appeal was also disposed of by the appellate authority on surmises and conjectures and without considering the pleas and of the applicant facts and evidence of the case.

4. The applicant has sought quashing and setting aside of the orders of the disciplinary authority and the appellate authority and to refund the amount recovered by the respondents from him by imposition of the impugned punishment of stoppage of two increments with cumulative effect along with 18% compound interest thereon.

5. The respondents in the counter have maintained that the allegations of the applicant are vague in respect of volume of work involving the compilation of Statistical data and declining work assigned to him by Dr.O.P.Bhatnager a Senior Officer. The respondents have further maintained that the departmental enquiry has been conducted as per the procedure and rules and the applicant has also been afforded opportunity of defence.

6. We have heard applicant at great length and also the learned

counsel of the respondents. We have also perused the material available on records.

7. The applicant has averred that he has been penalised even though there was no evidence against him to prove the charges levelled against him. According to him, no witnesses gave any evidence against the applicant and that he was busy doing the grant release work in March, 1991 when an incompetent officer, Dr.O.P. Bhatnager asked him to do the additional work which could not have been done because it involved collection of figures from about 60 centres. Learned counsel of the respondents on the other hand has maintained that the work which was given to the applicant was a regular and annual work relating to data for grant release and expenditure incurred in respect of projects. The applicant has been provided a copy of the Enquiry Officer's report to which he has also submitted his reply to the disciplinary authority. The Enquiry Officer in his report has held that the Article of charges 1 and III were proved and Article of charge II was not proved. It is relevant here to rely on the judgement of AIR 1989 AC 1185(UOI Vs.Perma Nanda) in which the role of Tribunal was laid down holding that the jurisdiction of the Tribunal to interfere with the disciplinary matters or punishment cannot be equated with an appellate jurisdiction. The Tribunal cannot interfere with the findings of the Inquiry Officer or competent authority where they are not arbitrary or utterly perverse. It is appropriate to remember that the power to impose penalty on a delinquent officer is conferred on the competent authority either by an Act of legislation or rules made under the proviso to Article 309 of the Constitution. If there has been an enquiry consistent with the rules and in accordance with the principles of natural justice what punishment would meet the ends of justice is a matter exclusively within the jurisdiction of the competent authority. If the penalty can lawfully be imposed and is imposed on the proved misconduct, the Tribunal has no power to substitute its own discretion for that of the authority. The adequacy of penalty unless it is mala fide is certainly not a matter for the

Tribunal to concern with. The Tribunal also cannot interfere with the penalty if the conclusion of the inquiry officer or the competent authority is based on evidence even if some of it is found to be irrelevant or extraneous to the matter. We see no infirmity in the disciplinary authority's order which has been passed after consideration of the Inquiry officer's report and the submissions made by the applicant and as the Enquiry officer has dealt with the pros and cons of all the charges levelled against him before coming to the conclusion that the Articles of charges 1 and III stood proved and Article of charge II has not been established. In view of the E.O's report being based on evidence adduced before him, we cannot accept the contention of the applicant that it has been a case of no evidence. The disciplinary authority has also in the impugned order dated 25.8.95 applied his mind and on considering the facts, records and the circumstances of the case ~~and~~ found ~~the~~ sufficient reasons for imposing penalty in question on the applicant. We are not in a position to assail the order in appeal in Ann.A.1 as well. We have also considered the other contentions of the learned counsel for the applicant but we do not find any merit in the same. We find that in the departmental enquiry against the applicant the prescribed procedure has been duly followed and the Tribunal is not in a position to re-appraise the evidence adduced in the enquiry. The Enquiry Officer and the disciplinary authority have given their reasons in reaching their findings in the case against the applicant.

8. Having regard to the above discussions and the reasons we do not find it to be a fit case for interference. OA is accordingly dismissed. No order as to costs.

(V.K.Majotra)
Member (A)

(Smt.Lakshmi Swaminathan)
Member(J)

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