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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No. 2128 of 1996

New Delhi, this the 14th day of March, 2000

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

Smt. S.L. Bhatia,
Administrative Officer,
Central Excise Division-I,
Ghaziabad

- Applicant

Versus

1. Union of India
Through the Secretary,
Department of Revenue,
Ministry of Finance,
North Block,
New Delhi-110 001
2. Additional Collector (P&V),
Central Excise North U.P. Collectorate,
Meerut, U.P.
3. Union Public Service Commission,
Through Its Secretary,
Dholpur House,
Shahjahan Road,
New Delhi.

- Respondents

ORDER (Oral)

By Justice Ashok Agarwal, Chairman-

The applicant at the relevant time was working as Administrative Officer, Central Excise Division-III, Ghaziabad. By the present O.A. she seeks to impugn an order passed against her in disciplinary proceedings imposing a penalty of withholding of three years annual increments with cumulative effect. Aforesaid order has been passed by the Collector, Central Excise and Customs, Meerut on 7.9.1993, who is the disciplinary authority. Aforesaid order of the disciplinary authority was carried by the applicant in appeal. The Under Secretary to the Government of India, being the appellate authority, by an order passed on 12th July, 1995 has affirmed the findings of the disciplinary authority and has dismissed the appeal.

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The aforesaid orders are impugned in the present O.A.

2. The applicant was charge-sheeted vide memorandum dated 24th July, 1992 under Rule 14 of the Central Civil Services (Classification, Control & Appeal), Rules, 1965 on the allegation that while posted as Stenographer/DOS in the Central Excise Collectorate, Kanpur/Meerut during the period from 1980 to 1991 she had carried out certain manipulations in her service book and other office records to alter her date of birth from 28th December, 1950 to 28th December, 1953. The applicant was accordingly alleged to have failed to maintain absolute integrity and ^{to have} / acted in a manner, which was unbecoming of a Government servant as enjoined upon a Government servant under Rule 3(i) (iii) of Central Civil Services (Conduct) Rules, 1964.

3. On the aforesaid charge having been denied by the applicant an open enquiry was conducted against her. The enquiry officer by his report dated 17th May, 1993 held that the charge levelled against the applicant was proved. A copy of the enquiry officer's report was furnished by the disciplinary authority to the applicant in order to enable her to submit her representation against the report. The disciplinary authority by a well reasoned order dated 7th September, 1993 has found the charge proved. The disciplinary authority has thereupon proceeded to impose the aforesaid penalty of withholding three years annual increments of the applicant with cumulative effect.

4. As already stated being aggrieved by the aforesaid order of the disciplinary authority the applicant on 18th October, 1993 preferred an appeal. The appellate authority by his order dated 12th July, 1995, which again is a well reasoned order, has upheld the

finding of the disciplinary authority and has proceeded to maintain the order of penalty and has dismissed the appeal.

5. We have perused the entire material on record and we find that the orders impugned are just and proper. The same are well reasoned and are based on good and sufficient material on record and hence no interference is called for in the present proceedings.

6. As far as service record of the applicant up to the year 1979 is concerned, her date of birth has been shown as 28th December, 1950. The said date appears in all the official record as also correspondence/letters addressed by the applicant to the department. However, from 1980 and onwards her date of birth is shown as 28th December, 1953 in three different sets of official documents - (i) the part-1 personal data of the ACR for the years 1980, 1982, 1985, 1986, 1989-90 and 1990-91; (ii) the front page of confidential character roll (Form 5-Appendix-XXV) (i.e. bio-data portion) in figures and in words also, namely, "Twenty Eight December nineteen Hundred Fifty Three". The aforesaid confidential character rolls bear the signatures of the applicant which has been attested by the Superintendent (Audit), Central Excise, Kanpur on 31st October, 1981; and (iii) bio data submitted to the department on 9th February, 1989 under her signature in which she has mentioned her date of birth as 28th December, 1953. Both the disciplinary authority as also the appellate authority have carefully considered the aforesaid documents as also the submissions raised by the applicant, and has found that the applicant has been

responsible for altering the date of birth in order to gain an advantage, namely, postponing her date of retirement. In our judgment there is no substance in the defence of the applicant, that there is no evidence on record to prove that she had manipulated her date of birth and that it is possible that the office might have committed a mistake in preparing the seniority list and in order to cover up that mistake might have attempted to change the service book or somebody might have played mischief to put the applicant in trouble. It is pertinent to note that the change of the date of birth is to be found even in the bio data which has been submitted by the applicant under her signature. As far as the defence of the applicant in regard to the said date is concerned, the same is merely got to be mentioned for the purpose of rejecting the same. According to her she had not remembered her date of birth and that is how a wrong date was mentioned by her. The applicant is an educated person. The date of birth is a very vital information which a person will never forget. The change of date of birth, therefore, cannot be by way of accident or by way of loss of memory.

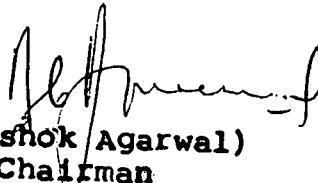
7. In addition, it has been found that the applicant has submitted eight documents to the department on various occasions in which she has described her date of birth as 28th December, 1953. These dates have been written on several of these documents in her own hand. In certain other documents she has verified under her signature her date of birth as 28th December, 1953. It is difficult to subscribe to the contention of the applicant that she has given the aforesaid wrong date by mistake and that too on eight different documents at eight different times. The applicant is the only person who

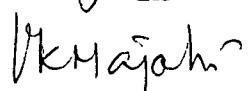


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stood to gain by making the aforesaid alterations in the date of birth, namely, the postponement of her date of retirement. The applicant is, therefore, clearly guilty of the aforesaid charge of tampering with the official record by effecting changes in her date of birth.

8. As far as the present proceedings are concerned, the UPSC has also been consulted in the matter. The UPSC has concurred with the finding of guilt. The aforesaid ~~authorities~~ persons we find have ~~fully~~ duly complied with the principles of natural justice, due and adequate opportunity has been afforded to the applicant to make good her defence, and finding of guilt has been given by a well reasoned orders both by the disciplinary authority as also the appellate authority. The penalty imposed, we find is also commensurate with the gravity of the charge found proved against the applicant. The same is ~~at all~~ ^{in leans} in favour of leniency in favour of the applicant. No case is, therefore, made out for interference in the present O.A. The same is accordingly dismissed. There ^{will} be, however, in the facts and circumstances of the case, no order as to costs.


(Ashok Agarwal)
Chairman


(V.K. Majotra)
Member (Admnv)

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