

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. NO.2696/1996

(32)

New Delhi, this the 1st day of June, 2000.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN  
HON'BLE SHRI V. K. MAJOTRA, MEMBER (A)

R.C.Goel,  
C/O Bal Raj Yadav,  
4272, Gali Banujee Wali,  
Pahari Dheeraj,  
New Delhi.

... Applicant

( None present )

-versus-

1. Union of India through  
Secretary, Govt. of India,  
Ministry of Defence (Finance),  
New Delhi.

2. Controller General of Defence Accounts,  
West Block-V, R.K.Puram,  
New Delhi.

3. Chief Controller of Defence  
Accounts (Pension),  
Allahabad (UP).

4. Union Public Service Commission  
through Secretary,  
Dholpur House,  
Shahjahan Road,  
New Delhi.

... Respondents

( By Shri K.C.D.Gangwani, Advocate )

O R D E R (ORAL)

Shri Justice Ashok Agarwal :

Applicant and his advocate are absent. We have heard Shri K.C.D.Gangwani, the learned advocate appearing on behalf of respondents. Having regard to the fact that the present O.A. has been pending since 1996, we proceed to dispose of the same in the absence of applicant and his advocate on merits, in terms of Rule 15 of the Central Administrative Tribunal (Procedure) Rules, 1987.

2. Applicant at the material time was an Auditor with the Chief Controller of Defence Accounts (Pension),

33

respondent No.3 herein. Amongst others, he was assigned the duties of disbursement of pension to ex defence personnel or to the families of ex defence personnel. Disciplinary proceedings were initiated against him vide memorandum of charge bearing No.CDA(P) Allahabad No.GX/1159 (Part)/AN-I dated 17.3.1988 for fraudulently managing payment of family pension to an imposter Smt. Jayanti Devi who posed herself as Smt. Giaso W/O late Ram Das who had already expired, in collaboration with Smt. Raj Yadav serving in JCDA (Funds). The memorandum of charges framed against the applicant contained the following charges :

"R.C.Goel Pt. Auditor (A/C No.8289009) while serving in the office of the Defence Pension Disbursing Office Meerut under the organisation of the CDA (Pensions) Allahabad managed the fraudulent payment of family pension to an imposter by impersonification in respect of Smt. Giaso W/o late Shri Ram Das as under :-

(i) Knowing the fact that the lady Pensioner Smt. Giaso has already expired, and also that she was last paid her pension by the T.O.Meerut upto and for 11/82, Shri R.C.Goel, in connivance with Smt. Raj Yadav auditor of Jt.CDA (Funds) Meerut and another lady named Smt. Jayanti Devi who posed as Smt. Giaso and managed fraudulent drawal of pension by impersonification.

(ii) All payments with effect from 12/82 to 1/85 were prepared by Shri Goel as reported by the DPDO Meerut vide confidential No.PPM/MRT/1/Confidential dt.1-8-1985.

(iii) The duplicate pension certificate IAFA-376 in respect of the lady pensioner has also been prepared by Shri Goel in 6/8883 as reported by the DPDO Meerut in his letter referred to above for drawal of the pension.

Thus Shri Goel Pt. Auditor was a party to the fraudulent payment case and is, therefore, charged with non-maintenance of absolute integrity and acting in a manner unbecoming of a Government Servant, thereby violating the provisions of Rule 3(1)(i) and 3(1)(iii) of the CCS (Conduct) Rules 1964."

3. Applicant vide his written statement dated 13.9.1988 denied the charges levelled against him. The enquiry officer furnished the applicant with a list of documents as also the list of witnesses proposed to be

examined in the departmental enquiry. Applicant was given assistance of defence assistant in order to aid and assist him in the enquiry. Three witnesses were examined in support of the prosecution. Several documents were produced in the enquiry. The same included the statement of Smt. Raj Yadav dated 4.3.1985. The notes of oral evidence recorded by the enquiry officer show that prosecution witnesses were subjected to searching and detailed cross examination. Pending enquiry applicant retired from service on 30.6.1992. Departmental proceedings were continued by the disciplinary authority under Rule 9(2)(a) of the Central Civil Services (Pension) Rules, 1972. Based on the material adduced, the enquiry officer by his report, after giving a detailed appreciation of the evidence led before him, held the charge fully proved against the applicant. Applicant duly submitted his representation dated 14.7.1992 against the aforesaid findings of the enquiry officer.

4. The matter was referred to the Union Public Service Commission (UPSC) for its advice. The UPSC by its communication dated 5.9.1994 concurred with the finding of the enquiry officer, namely, charge framed against the applicant having been fully proved. It accordingly gave the following advice :

"4. In the light of their findings as discussed above and after taking into account all other aspects relevant to the case, the Commission consider that the ends of justice would be met in this case if 50% (fifty per cent) of the monthly pension normally admissible to Shri R.C.Goel is withheld for a period of five years. They advice accordingly."

Based on the aforesaid advice of the UPSC, the President passed the impugned order. The president in exercise of

35

powers conferred under Rule 9 of the C.C.S. (Pension) Rules proceeded to pass the impugned order of penalty withholding 50% of the monthly pension admissible to the applicant for a period of five years. Applicant by his representation of 28.7.1995 sought to impugn the aforesaid order of penalty. However, the same has not been considered as no representation against an order of the President is maintainable. Applicant has thereafter instituted the present O.A.

5. As far as the applicant is concerned, he has sought to raise various contentions as if we were a court of appeal. Tribunals, it must be remembered, are not vested with appellate jurisdiction in the matter of disciplinary cases and their jurisdiction is limited to judicial review only, as enunciated by the Supreme Court in the case of **State Bank of India v. Samarendro Kishore Endow**, 1994 (1) SLR 516. In another case, namely, **Union of India & Ors. v. Upendra Singh**, (1994) 27 ATC 200 (SC), the Supreme Court has observed as follows :

"....in the case of charges framed in a disciplinary inquiry the Tribunal or Court can interfere only if on the charge framed no misconduct or other irregularity alleged can be said to have been made out or charges framed are contrary to any law. At this stage, the Tribunal has no jurisdiction to go into the correctness or truth of charges. The Tribunal cannot take over the functions of the Disciplinary Authority. The truth or otherwise of the charges is a matter for the Disciplinary authority to go into. Indeed even after the conclusion of the disciplinary proceedings, if the matter comes to court or Tribunal, they have no jurisdiction to look into the truth of charges or into the correctness of the findings recorded by the Disciplinary Authority or the Appellate Authority as the case may be."

6. If one has regard to the aforesaid decisions of the Apex Court, we are afraid it will not be open for us to sit in judgment over the findings of the enquiry officer and the decision of the President based on the advice of the Union Public Service Commission.

*N.P.*

36

7. It has, inter alia, been contended by the applicant that he has been denied the assistance of a lawyer. In our view, the presenting officer in the instant case was not a legal man. In the circumstances, applicant could not claim as a matter of right the assistance of a lawyer in the instant disciplinary proceedings. Moreover, we find that the defence assistant in the instant case who had appeared on behalf of the applicant has done full justice to the applicant's case inasmuch as he carried lengthy and searching cross examination of the witnesses. As far as findings of guilt which have been arrived at are concerned, the same, we find, are fully borne out by the evidence placed in the departmental enquiry. The same is not liable to be disturbed in view of the limited jurisdiction vested in the Tribunals as enunciated by the Apex Court. Similarly, no interference is also called for in respect of the measure of penalty which has been imposed on the applicant.

8. Present O.A., in the circumstances, we find is devoid of merit. The same is accordingly dismissed with no order as to costs.

V.K.Majotra  
( V. K. Majotra )

Member (A)

Ashok Agarwal  
( Ashok Agarwal )  
Chairman

/as/