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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1932/1997

New Delhi, this 3rd day of July, 2000

Hon'ble Justice Shri V.Rajagopala Reddy, VC(J)  
Hon'ble Smt. Shanta Shastry, Member(A)

N.P. Singh  
Qr.263, Phase A  
Pallavapuram, Meerut .. Applicant  
(Mrs. Rani Chapra, Advocate)

versus

Union of India, through

1. Secretary  
Department of Revenue  
Ministry of Finance, New Delhi
2. Central Board of Excise & Customs  
New Delhi
3. Collector  
Customs & Central Excise, North UP  
Collectorate, Meerut
4. Additional Collector(P&V)  
Central Excise, Meerut .. Respondents

(By Shri N.S.Mehta, Sr. Advocate)

ORDER(oral)

Smt. Shanta Shastry

Disciplinary proceedings were initiated against the applicant and penalty of withholding of four increments with cumulative effect was imposed by the disciplinary authority (DA, for short) vide order dated 9.3.94. The order was confirmed by the appellate authority on 31.3.96 and the appeal was rejected. A revision petition was filed by the applicant, The same also was rejected vide order dated 29.4.97. Applicant has prayed to quash the order dated 29.4.97 confirming order dated 31.3.95 and the order in original dated 9.3.94 and to release his increments with arrears.

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3. The applicant was posted as Tax Assistant in the Divisional Office, Meerut of Central Board of Excise & Customs. He was working as Cashier during the period from 13.5.88 to 20.5.92. During the period January, 1992 to May, 1992, the applicant fell sick and was on leave for some days. The applicant was served with charge-sheet on 25.9.92 for six charges. These charges in short were that the applicant remained absent unauthorizedly from January to May, 1992 for a total period of 33 days. As a result, payment of salary to some staff was not disbursed upto 14.5.92; in spite of verbal/written directions of the supervisory officer, the applicant did not present himself for cash verification, completion of the disbursement register, cash book etc; he did not ~~and~~ draw and disburse rent for Hapur office building for the period from January to April, 1992; payment of rent of Baraut office building was also delayed and he did not present himself in spite of memo dated 6.8.91. He denied all the charges and an enquiry was held. The Enquiry Officer (EO, for short) in his report dated 24.12.93 found three of the charges as proved and one as not established. The DA after considering the report of the EO and the submissions of the applicant on the report of the EO agreed with the findings of the EO and imposed the penalty of withholding four increments with cumulative effect. Applicant failed to produce anything in his support that he had submitted proper application of leave and had remained on leave with prior permission/sanction of the competent authority. He could not provide any proof for the delay in payment of salary <sup>to</sup> the staff nor regarding non-completion of cash register.

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3. It is the contention of the learned counsel for the applicant that the DA agreed in toto with the findings of the EO without making his own enquiry. Similarly the appellate and revisional authorities also upheld the order of the DA without considering the submissions made by the applicant and without applying their mind.

4. The learned counsel for the applicant maintains that the applicant had submitted application for sanction of leave for the period of alleged absence which was duly sanctioned by the concerned authority and salary for the said period was also paid to him which goes to prove that the applicant was not absent unauthorizedly from duty. The applicant was sick. The delay in disbursement of salary to some of the staff was due to circumstances beyond his control.

5. We have heard the learned counsel for the applicant as well as the respondents and have perused the pleadings. We find that the enquiry was conducted as per rules and the DA, appellate and revisional authorities have all passed reasoned, exhaustive speaking orders after taking into consideration the enquiry report and the submissions made by the applicant.

6. It is seen from the counter submitted by the applicant that the applicant was absent for a total period of 33 days during January to May, 1992 but he submitted medical certificate only for his absence on 30.4.92. If he was really sick he should have taken medical leave or earned leave instead of absenting from

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duty without submitting leave application. No other medical certificate in respect of his absence was submitted by the applicant. His unauthorised absence led to lot of harassment and inconvenience to the staff as some of the staff could not get their pay and dearness allowance in time. We are satisfied that there is no infirmity in the orders of the DA, appellate or revisional authorities. We would not like to interfere with the same.

7. Learned counsel for the applicant however submits that the penalty imposed is rather disproportionate. In exercise of our judicial review jurisdiction we cannot interfere with this. We do not agree<sup>1</sup>. The post of cashier is a sensitive post and the applicant failed in his duties. Unauthorised absence without proper explanation cannot be taken lightly. He was unable to produce any evidence of his having applied for leave and its having been sanctioned. Nor did he produce any medical certificate except for one day's absence. We are therefore unable to subscribe to the view that the punishment meted out is disproportionate.

8. We therefore do not find any merit in the OA and the same is dismissed. We do not order any costs.

*Shanta Shastray*  
(Smt. Shanta Shastray) (V.Rajagopala Reddy)  
Member(A) Vice-Chairman(J)

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