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Central Administrative Tribunal, Principal Bench

Original Application No.956 of 1997

New Delhi, this the 16th day of February, 2000

Hon'ble Mr. S. R. Adige, Vice Chairman(A)
Hon'ble Mr. Kuldip Singh, Member (J)

M.S. Bhatnagar,
S/o late Shri A.S. Bhatnagar,
r/o 406 Konark Apartments,
Plot No. 22, Patparganj,
Delhi-110092

- Applicant

(By Advocate - Shri Shyam Babu)

Versus

1. Union of India, through
Secretary,
Ministry of Urban Development
Nirman Bhawan,
New Delhi

2. The Secretary to Govt. of India
Ministry of Finance,
Deptt. of Expenditure
(Controller General of Accounts)
Lok Nayak Bhawan, Khan Market,
New Delhi

3. Chief Controller of Accounts
Ministry of Urban Affairs & Employers
Nirman Bhawan, New Delhi

- Respondents

(By Advocate - Shri P.H. Ramchandani)

O R D E R

By Hon'ble Mr. Kuldip Singh, Member (J)

By this OA, the applicant has assailed the order dated 22.11.96 vide which a penalty of compulsory retirement has been imposed upon him with a cut of one-tenth of pension admissible to him. The applicant has prayed for quashing of the impugned order and has claimed reinstatement in service or in the alternative, he has prayed for payment of the amount as stated in Chart at Annexure 'P'.

2. Facts in brief are that the applicant was

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proceeded departmentally for certain lapses on his part as per Annexure 'B' to the OA. The main allegation against the applicant was that he had exceeded his powers in issuing a supply order for the value of Rs.4,13,217/- during the year 1983-84 and he had failed to get these supplies approved individually from the Superintending Engineer/Chief Engineer as per Rules. For these lapses, after the service of chargesheet, articles of charges were framed and an enquiry was held against the applicant in which he was found guilty. On the basis of the enquiry report, the disciplinary authority passed an order removing the applicant from service. Feeling aggrieved by that order, the applicant had filed OA-208/88 before this Tribunal. The Tribunal quashed the order of the Appellate Authority and the matter was remanded back. In compliance of the directions given by the Hon'ble Tribunal, another order was passed by the appellate authority which is impugned in this OA vide which penalty of "removal from service" was converted into "compulsory retirement" with a cut of one-tenth of pension.

3. The grievance of the applicant is that when the enquiry was held, it was a joint enquiry wherein other officers of the Department were also proceeded against, particularly one Shri Saxena who was also proceeded departmentally for identical allegations. In the case of Shri Saxena, he was awarded the penalty of withholding of increment with non cumulative effect for a period of three years whereas the applicant has been awarded the severe penalty of compulsory

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retirement with a further cut of one-tenth of pension. This is stated to be totally arbitrary, unjustified, discriminatory and violative of Articles 14 and 16 of the Constitution. Besides this, the applicant has taken certain other grounds to challenge the enquiry proceedings also.

4. We have heard Shri Shyam Babu, learned counsel for the applicant and Shri P.H. Ramchandani, learned counsel for the respondents.

5. Shri Shyam Babu, learned counsel for the applicant has taken up the only ground that since the charges levelled against the applicant as well as the other delinquent officer Shri Saxena were identical, the variation in the punishment on the face of it, is discriminatory as he has been awarded the punishment of compulsory retirement with a cut of one-tenth of pension whereas Shri Saxena has been awarded the punishment of withholding of one increment with non-cumulative effect for a period of three years. In comparison to Shri Saxena, the penalty awarded to the applicant is quite severe and cannot be sustained in law. No other point was argued by Shri Shym Babu.

6. The only reply given by Shri P.H. Ramchandani, learned counsel for the respondents to justify the difference in punishment in the case of both the delinquent officials is that Shri Saxena is still in service whereas the applicant was to superannuate on 31.7.86 and his compulsory retirement had been ordered with effect from 16.7.86 which has a

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negligible effect on the qualifying service for determination of pensionary benefits. Similarly the cut in pension is also marginal. As such, the learned counsel tried to justify the different treatment given to the applicant as well as Shri Saxena on this ground.

7. The learned counsel appearing for the respondents referred to a judgement reported in II 1997 (7) SC 572 i.e., Union of India & anr. vs. G. Ganayutham and submitted that the courts should not normally interfere with the findings about the punishment unless the courts find that the punishment being outrageous and defiance of logic, only then the courts can interfere with the order of punishment and then too, it cannot substitute its own view of punishment and has to remit the case for being reconsidered by the punishing authorities.

8. Since in this case, the OA has been filed to challenge the punishment awarded to the applicant and that too on the ground that in similar circumstances punishment awarded to Shri Saxena was different as Shri Saxena was awarded the punishment of withholding of increment with no cumulative effect for a period of three years, whereas the applicant has been awarded the punishment of compulsory retirement with a further cut of one-tenth of pension though the order of punishment does not speak in clear terms as to why different punishment had been awarded to the applicant than that of Shri Saxena.

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9. However, in reply to the OA, the department had justified the punishment awarded to the applicant with the reasons that in case of Shri Saxena, he was to still continue in service whereas the applicant's superannuation was reaching as on 31.7.86 and the penalty of compulsory retirement had been awarded on 16.7.86 i.e. about a 15 days from his due date of retirement. So practically, there is no effect on the qualifying service and overall emoluments of pensionary benefits and the cut in pension is also marginal and Shri Saxena could not get promotion as Assistant Accounts Officer from his due date on account of penalty imposed on him and got the promotion much later.

10. Considering these distinguishing features, there appears to be some logic in awarding different punishment to the applicant by the authorities concerned. The penalty of withholding of increment for three years, if awarded, would have become meaningless since within a fortnight the applicant would have retired from service. So there appears to be sound reasoning for awarding the punishment of compulsory retirement and one-tenth cut in pension which will have only a marginal effect.

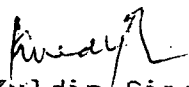
11. Moreover, the judgement cited by the learned counsel for the respondents lays down a law that the courts can interfere in the orders of punishment only

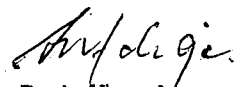
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if the courts find that the order imposing punishment is outrageous and has been made in defiance of logic. Since the order of punishment passed in this case is neither outrageous nor appears to be passed in defiance of any logic, so we are of the view that the OA does not call for any interference.

II. In view of the above, the OA has no merits and the same is accordingly dismissed. No costs.


(Kuldip Singh)
Member (J)


(S.R. Adiga)
Vice Chairman (A)