

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

OA 996/1997

(12)

New Delhi this the 21st day of August, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member (J)  
Hon'ble Shri S.A.T. Rizvi, Member (A)

Shri Swapan Chakraborty,  
S/O Shri J.C.A. Chakraborty,  
Upper Division Clerk,  
Union Public Service Commission,  
Dholpur House, New Delhi

D-513, Sarojni Nagar,  
New Delhi-3

.. Applicant

(None for the applicant )

Versus

1. The Secretary,  
Union Public Service Commission,  
Dholpur House, Shahjehan Road,  
New Delhi.
2. Joint Secretary,  
Administration,  
Union Public Service Commission,  
Dholpur House, Shahjehan Road,  
New Delhi.

.. Respondents

(BY Advocate Mrs. B. Rana )

ORDER (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

None has appeared for the applicant even on the second call and this case has been listed at Serial No. 2 under regular matters under the caption that 'matters will be taken up serially and no adjournment will be granted'. In the circumstances, we have perused the pleadings and heard Mrs. B. Rana, learned counsel for the respondents.

2. The applicant has challenged the validity of the order passed by the respondents dated 17.9.96 (Annexure A-1) dismissing his appeal which he had filed against the disciplinary authority's order dated 9.2.1996. The disciplinary authority's order has been passed against the applicant after

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holding a disciplinary proceeding against him under Rule 14 of the CCS(CCA) Rules, 1965 (hereinafter referred to as the 'Rules'). Memo. of charge had been issued against him on 27.2.1987 to which he had given reply and had also participated in the enquiry proceedings. The disciplinary authority, after scrutiny <sup>of 18</sup> all the relevant records, including Inquiry Officer's report found no reasons to disagree with the findings of the Inquiry Officer's report and imposed on him the penalty of reduction to the lower rank of LDC with effect from the date of service of the order for a period of three years. From the disciplinary authority's order/it is seen that the applicant had been given reasonable opportunity to put forward his case and at the request of the Defence Assistant, the Inquiry Officer had postponed the hearing dates. We are, therefore, satisfied from ~~the~~ perusal of the relevant documents that the respondents have complied with the principles of natural justice in holding the enquiry.

3. The applicant has stated that he was/active member of the Central Government Clerks Union and is an office bearer of the said Union and hence, the respondents have acted in a malafide manner with ~~vengeance~~ by holding the disciplinary proceedings against him. It is also noticed that general allegations of bias have been made ~~but~~ but the same have not been proved, as contended by Mrs. B. Rana, learned counsel for the respondents.

4. Learned counsel for the respondents has submitted

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that the penalty order impugned in the present case has been passed by the disciplinary authority in accordance with the Rules. She has also submitted that the applicant had filed three earlier applications and this is the 4th application he has filed. He had earlier challenged the suspension in order passed by the respondents /OA 354/1989 which was withdrawn by order dated 12.9.1989. Thereafter he had filed OA 176/90 which was disposed of by the Tribunal's order dated 15.5.90 holding that the disciplinary authority had enough powers to record and consider evidence in totality and come to its own decision. The applicant, thereafter, filed another application, OA 2835/91, praying for setting aside the Memo. dated 14.10.1991. That OA had also been dismissed as having become infructuous. The respondents have stated that in the present OA the appellate authority had passed the impugned order after perusing the relevant documents and evidence on record which has been recorded in the order itself. Learned counsel has, therefore, submitted that the order is legal and valid and has been passed by the appellate authority with application of mind.

5. During the course of hearing, Mrs. B. Rana, learned counsel has drawn our attention to the order passed by the respondents dated 27.7.2000, copy placed on record. In this order we find that another disciplinary proceeding had been held against the applicant under Rule 14 of the Rules, which was initiated against him by order dated 22.9.1997 for his unauthorised absence from duty from 26.8.1996. In this order,

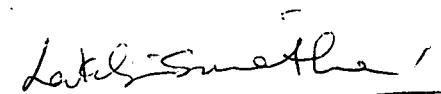
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the respondents have imposed the penalty of compulsory retirement from service on the applicant and as none has appeared for the applicant, we are not aware whether any appeal has been filed against <sup>13</sup> this order. However, as this order has been passed subsequently, we are not dealing with that issue at this stage.

6. On perusal of the documents on record, including the rejoinder, we are unable to agree with the contentions of the applicant that this is a case which justifies <sup>any</sup> ~~any~~ interference in the matter, in exercise of the powers of the judicial review (See the judgements of the Hon'ble Supreme Court in UOI Vs. Perma Nanda (AIR 1989 SC 1185 and Tata Cellular Vs. UOI (1994(6)SCC 651). We are satisfied that the applicant had been afforded reasonable opportunity of hearing in the departmental proceedings held against him by the respondents before passing the aforesaid impugned penalty order which has been upheld by the appellate authority by order dated 17.9.1996. In the circumstances of the case, we do not think that <sup>this</sup> ~~any~~ case warrants any interference in the matter. The OA is accordingly dismissed. No order as to costs.

  
(S.A.T. Rizvi )  
Member(A)

  
(Smt. Lakshmi Swaminathan)  
Member(J)