

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. 1827/2000

New Delhi this the 23rd day of October, 2002

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J).
Hon'ble Shri V.K. Majotra, Member (A).

Tek Chand,
S/o Shri Khajan Singh,
House No.60,
Vill & PO - Naya Bans,
Delhi-110 082.

... Applicant.

(By Advocate Shri S.N. Shukla)

Versus

1. Union of India through
The Secretary,
Ministry of Agriculture,
Department of Animal Husbandry,
and Dairying, Krishi Bhawan,
New Delhi.

2. The General Manager,
Government of India, Delhi Milk
Scheme, West Patel Nagar,
New Delhi-110 008.

... Respondents.

(By Advocate Shri S.M. Arif)

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J).

In this application, the applicant has challenged the vires of the order passed by the respondents dated 29.6.1999 imposing a penalty of reduction of his present pay to the minimum in the time scale of pay for a period of 3 years during which period he will not earn any increments of pay and on the expiry of the period it will not have the effect of postponing his future increments of pay. The appeal filed by the applicant against this order has been dismissed by the appellate authority by his order dated 4.5.2000 (Annexures A-1 and A-2).

2. We have heard Shri S.N. Shukla, learned counsel for the applicant and Shri Mohd. Arif, learned

counsel for the respondents and perused the pleadings and relevant documents on record.

3. The applicant has stated that he was appointed as Mate in Delhi Milk Scheme (DMS) by the order dated 18.4.1980 which order has been passed by the General Manager (GM), Shri J.K. Arora. The impugned penalty order dated 29.6.1999 has been passed by the Deputy General Manager (DGM) (Admn.) as disciplinary authority and the GM has rejected his appeal, as the appellate authority by order dated 4.5.2000. These penalty orders have been passed after the applicant was issued a charge-sheet under Rule 14 of the CCS (CCA) Rules, 1965 (hereinafter referred to as 'the Rules'). In the circumstances, the learned counsel for the applicant has submitted that the impugned penalty order has not been passed by the competent authority as it has been passed by an officer who is admittedly lower in rank i.e. the DGM (Admn.) and, therefore, is without any jurisdiction. Accordingly, he has prayed that the penalty orders passed by the disciplinary authority and the appellate authority may be quashed and set aside, restoring the applicant to his original pay. Learned counsel has also taken a number of other grounds in the O.A. impugning the penalty orders. The learned counsel has submitted that the applicant has retired from service on superannuation w.e.f. 31.7.2000.

4. The applicant has stated that the above penalty orders have been passed by the respondents after initiating the common disciplinary proceedings against the applicant and two other Mates under Rules 14 and 18 of the Rules. The learned counsel has submitted that the penalty

order passed by the DGM (Admn.) imposing a penalty of reduction of the pay of the applicant to the minimum scale of pay for a period of 3 years is illegal as he was not the competent authority. Accordingly, he has contended that the appellate authority's order is also passed by the incompetent authority and on this ground alone the penalty orders should be quashed and set aside.

5. We have seen the reply filed by the respondents and heard Shri Mohd. Arif, learned counsel. Further to our directions, he has submitted the order dated 3.6.1978 (copy placed on record), issued by the respondents by which the disciplinary authority, Shri J.K. Arora, who was then the DGM (Admn.) in DMS, who was then holding current charge of the post of Chairman of that Scheme, was appointed to the post of GM. It has been further stated in the order that the post of DGM has been created by redesignating the post of Chairman, DMS. The learned counsel has submitted that as there was no DGM (Admn.) at the relevant time when the applicant was appointed as Mate, that is when the order dated 18.4.1980 was issued, the same officer, namely, Shri J.K. Arora, had issued the order as GM. He has also submitted the order dated 7.7.1984 i.e. the relevant rules issued under Rule 12 (2) of the Rules. Under Part-III of the Schedule to these Rules, the DGM (Admn.) in the office of the respondents was the appointing authority for appointments to all posts. Therefore, he has contended that there is no infirmity in the impugned penalty orders against the applicant on the ground urged by the learned counsel that they have not been passed by the competent authority.

6. We have carefully considered the submissions and the documents relied upon by the learned counsel for

the parties on the question whether the impugned penalty orders have been issued by the competent authority.


7. In this particular case, it is seen that the applicant has been appointed as Mate by the GM by order dated 18.4.1980 and not by the DGM (Admn.), who was designated under the Rules as the appointing authority. The contention of the learned counsel for the respondents that the impugned penalty order passed by the DGM (Admn.), is by the competent authority, cannot be accepted, as the appointing authority was the GM and not the DGM (Admn.) in the case of the applicant. Therefore, on this ground taken by the learned counsel for the applicant, the penalty order is liable to be quashed and set aside.


8. Apart from the above, we also note that the DGM (Admn.) as disciplinary authority has imposed a penalty on the applicant under Rule 11 of the Rules by imposing a penalty of reduction of his present pay to the minimum in the time scale of pay for a period of three years. It was further ordered that during the period, he will not earn any increments of pay and on the expiry of this period, the reduction will not have the effect of postponing. This penalty order has been imposed on 29.6.1999. Learned counsel for the parties have submitted that the applicant has retired on superannuation from service on 31.7.2000 i.e. within the period of three years of reduction of pay imposed on him by the impugned penalty order. The respondents ought to have been aware of the relevant facts of the case while imposing the penalty of reduction of pay by three years, which apparently is not the situation here. It is clear from a perusal of the penalty order that the same cannot be given effect to for three years as the applicant retired from service on 31.7.2000 and he will be

entitled to retiral benefits w.e.f. 1.8.2000. This shows that there is no proper application of mind by the respondents while passing the impugned penalty order. On this ground also, the penalty order is liable to be quashed and set aside.

9. In the result, for the aforesaid reasons, this application succeeds and is allowed. The penalty order passed by the disciplinary authority/DGM (Admn.) dated 29.6.1999 is quashed and set aside. Consequently, the appellate authority's order dated 4.5.2000 is also quashed and set aside. Accordingly, the applicant shall be entitled to consequential benefits of restoration of his pay and revision of retiral benefits, in accordance with the relevant rules. This shall be done within two months from the date of receipt of a copy of this order.

No order as to costs.


(V.K. Majotra)
Member (A)


(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

'SRD'