

(8)

Central Administrative Tribunal, Principal Bench

Original Application No.2001 of 2000

New Delhi, this the 10th day of May, 2001

Hon'ble Mr.Kuldip Singh, Member (J)
Hon'ble Mr.Govindan S.Tampi, Member(A)

Shri Manak Rao
S/o late Shri Dalpat Rao
Wireman
under Executive Engineer(E)
Electrical Construction Divn. No.III
C.P.W.D., New Delhi

- Applicant

(By Advocate: Sh.B.L.Madhok, proxy for Sh.B.S.Mainee)

Versus

1.Union of India through
The Director General(Works)
C.P.W.D.,
Nirman Bhawan,
New Delhi-11

2.The Superintending Engineer
Delhi Central Electrical Circle No.VII
C.P.W.D.
East Block, R.K.Puram
New Delhi-66

3.The Executive Engineer(Electrical)
Electrical Construction Div.No.III
C.P.W.D.
Sewa Bhawan, R.K.Puram
New Delhi-22

- Respondents

(By Advocate: Sh.P.P.Ralhan, proxy for Sh.J.B.Mudgil)

O R D E R (ORAL)

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

This O.A. has been filed by the applicant under Section 19 of the Administrative Tribunals Act assailing order dated 17.9.99 issued by the Superintending Engineer, Delhi Circle whereby penalty of reduction to the lower stage of time scale by two stages has been imposed upon him for a period of four years from retrospective effect w.e.f. 6.8.92, i.e. the date when he was placed under suspension. Applicant has stated that his appeal against the said order is pending and the department has not decided

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the same.

2. To challenge the impugned order, the applicant has taken the plea that charges levelled against him are false and baseless and since the J.E. under whom he was working, wanted him to do some private work of one of his friends which the applicant refused to do in duty hours and from this event, the J.E. felt offended and made a false complaint against the applicant which was not supported even by Shri Suresh Chand who was available on the spot and was listed as prosecution witness. Besides that, it is pleaded that order of penalty has been passed by the Superintending Engineer who was not the competent authority and as such, the penalty order is without jurisdiction. It is submitted that Executive Engineer who was the appointing authority in the case of the applicant, was also the disciplinary authority in his case. It is also pleaded that the Superintending Engineer did not indicate in the impugned order that it was appealable and appeal could have been preferred against that order, which was a mandatory provision under the rules.

3. O.A. is contested by respondents. They have pleaded that Superintending Engineer is the appointing authority as well as the disciplinary authority in the case of the applicant. It is also stated that no principles of natural justice have been violated and the applicant had been given full opportunity to defend himself in the enquiry and order



of penalty passed is a valid one. Besides that, it is also pleaded that applicant's appeal has been decided and the appellate authority has considered all the grounds taken by the applicant and the order imposing penalty had been upheld with modification that the date of effect of the order would be 17.9.99 instead of 6.8.92.

4. The main contention of the applicant is that charges have not been proved against him. However from perusal of the impugned order, I find that charge no.1 stood proved and it is well settled that the Tribunal while exercising the power of judicial review, cannot reappreciate the evidence. Therefore, we cannot interfere with the impugned order on this ground.

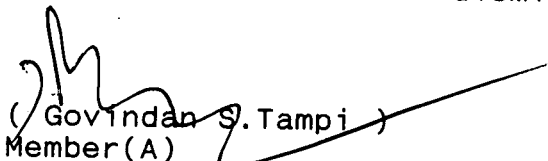
5. Next ground taken by the applicant is that impugned order had been passed by the Superintending Engineer who was not competent to pass the same. But we find that there is no bar if an authority higher than the appointing authority passes the impugned order of punishment. Respondents have also controverted the plea of the applicant that Superintending Engineer was not the appointing authority in his case. It has been submitted by the respondents that Suptdg. Engineer who was the appointing authority for the post of Wireman, was also the disciplinary authority in the case of the applicant. Therefore we find that this plea of the



applicant is also without merits as the applicant is only claiming that a junior authority is his appointing/disciplinary authority.

6. Applicant has also taken the plea that while passing the impugned order, the disciplinary authority had not mentioned that an appeal against the penalty order could be preferred which was a mandatory requirement of the rules. However, from the pleadings available on record, it is found that applicant had preferred an appeal meaning thereby that no prejudice had been caused to the applicant as he had preferred the appeal only after receiving the impugned penalty order. Respondents have enclosed a copy of appellate order at Annexure R-I. At this stage, we may also mention that the applicant has not taken any step to challenge the order of the appellate authority, therefore it seems that he is satisfied with the same.

7. In view of the above discussion, we find that none of the grounds taken by the applicant are strong enough to interfere with the impugned order. The O.A. is therefore dismissed. No costs.


(Govindan S. Tampi)
Member(A)


(Kuldip Singh)
Member(J)

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