



CENTTRAL ADMINISTRATIVE TTRIBUNAL  
PRINCIPAL BENCH

OA 2175/2000

New Delhi this the 7th day of February, 2002

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

M.L.Gupta,  
S/O Late Shri Fateh Chand,  
1436/09, Laxmi Bhawan, Tri Nagar,  
New Delhi.

..Applicant

(By Advocate Shri B.S. Oberoi )

VERSUS

1. Union of India  
Through Secretary, Department  
of Culture, Ministry of Human  
Resource Development, C-Wing,  
Shastri Bhawan, New Delhi-110001

2. Director and Chief Vigilance  
Officer, Department of Culture,  
Ministry of Human Resources  
Development, C-Wing, Shastri Bhawan,  
New Delhi-110001

3. Deputy Secretary (Admn.),  
Department of Culture,  
Ministry of Human Resource  
Development, C-Wing, Shastri Bhawan,  
New Delhi.

..Respondents

( By Advocate Shri R. N.Singh )

O R D E R (ORAL)

(Hon'ble Shri S.A.T.Rizvi, Member(A)

On a charge of embezzlement, forgery etc.under  
Sections 419, 420, 468, and 471 of the IPC, the applicant,  
who was then an Accounts Clerk, was convicted by the Court  
of ACMM in 1988. His conviction was upheld by the  
Appellate Court on 25.11.1992. However, he was given the  
benefit of Probation of Offenders Act by the Appellate  
Court. Based on his conviction, the applicant, who had in  
the meanwhile retired from service, was punished by the

President by imposition of a penalty of withholding of 100% pension and gratuity by an order passed on 25.2.1997. Reliance has been placed by the President in passing the aforesaid order on Rule 9 of the CCS (Pension) Rules, 1972.

2. Being aggrieved by the aforesaid order, the applicant approached this Tribunal in OA 668/1998. That matter got decided on 4.8.1999. The aforesaid order of penalty was quashed and set aside by holding that while passing the aforesaid order, the respondents had relied merely on the fact of conviction of the applicant by the Criminal Court. The respondents were given the liberty to pass a fresh order by giving reasons in support of the order.

3. The applicant consequently filed a detailed representation before the President which has been considered and by an order passed on 6.12.1999 (Ann.A.1), the penalty of withholding 100% pension and gratuity imposed earlier has been maintained.

4. Learned counsel appearing in support of the OA assails the aforesaid order on the ground that once again the same is based on the fact of conviction alone, and the order dated 6.12.1999 read as a whole would seem to be a non-speaking order. The issue of non-supply of UPSC's advice to the applicant was also raised, though not pressed.

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5. Learned counsel appearing on behalf of the respondents has, on the other hand, vehemently argued that the impugned order dated 6.12.1999 is a detailed order which assigns reason in support of the order passed and the same cannot be said to be a non-speaking order, judged by any standard. He has also relied on UOI Vs. Bakshi Ram decided by the Supreme Court on 1.3.1990 and reported as 1990 (2) SCC 426 to contend that a dismissal on the ground of conviction alone cannot be faulted merely on the ground that the benefit of Probation of Offenders Act has been extended to the employee.

6. Learned counsel has, in order to place before us the conduct of the applicant, drawn our attention to paragraph 4.4. of the OA and to the reply given by the respondents in their counter affidavit in respect of paragraphs 4.6 to 4.11. We have had occasion to peruse the contents of the aforesaid paragraphs and find that the applicant has tried therein to find fault with the ACCM's Court on the ground, *inter alia*, that the Court's decision stemmed from a consideration of the community involved. conviction. We are constrained to denounce such an attitude, particularly when it comes to the ~~fore~~ in matters placed before the Tribunal/ Court. We also find that for the purpose of seeking the benefit of Probation of Offenders Act, the applicant had, before the Court of Criminal jurisdiction, given out his age as 60 years, whereas, in point of fact, he was only 57 years old at that time. The applicant admittedly retired on 30.11.1993



at the age of 58 years, whereas the Court of criminal jurisdiction (appellate Court) had passed orders in question one year before he retired. Thus, obviously, he was 57 years old at the material time. This also shows the irresponsible conduct of the applicant, which we have noted even though we may not allow this matter to weigh with us in passing orders on the merit of the present OA.

7. We will now deal with the impugned order dated 6.12.1999. In addition to the fact of conviction of the applicant by the Court of criminal jurisdiction, the president has found occasion to make a reference in the aforesaid order, to the serious default committed by the applicant by not providing a copy of the criminal Court's judgement, a mandatory requirement under the CCS(CCA) Rules and instructions, to the respondents. The President also had occasion to re-examine and re-appraise the conduct of the applicant which led to his conviction, before he passed the impugned order. It has been clearly mentioned in the impugned order that the applicant's conduct was "blame-worthy enough" to warrant the imposition of a penalty of removal from service, had he been in service at the material time. The facts and circumstances brought out by the applicant in his detailed representation have also been duly considered and there is a clear mention in the impugned order that the applicant had failed to bring out any extenuating circumstance of a compulsive nature relating to his misdemeanour which had led to his conviction by the Criminal Court. An opportunity of personal hearing was also given to him. In the impugned

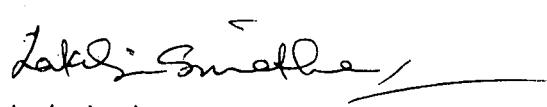
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order, the President has not dealt with the various pleas the applicant may have taken in his detailed representation but, in our judgement giving of such details and recording of a finding in respect of each plea raised in it is not necessary. It is enough that the President has duly applied his mind and has only thereafter arrived at a fair and objective judgement in the matter by considering the various pleas as an integrated whole. For these reasons, the impugned order cannot, in our view, be faulted, and must be allowed to prevail.

9. Learned counsel appearing on behalf of the applicant had placed reliance on the judgement rendered by this Tribunal in Sunil Massy Vs. Assistant Mechanical Engineer and Ors reported as AISLJ 1997(2) CAT 487) and Lalita Prasad Vs. UOI reported as SLJ 1998(1)601. Both these are, in our view, distinguished as in both of them the orders were passed on the basis of the fact of conviction alone and the employees concerned were still in service. The ratio of the aforesaid judgements cannot, therefore, provide any assistance to the applicant.

10. In the light of the foregoing, the present OA is found to be devoid of merit and is dismissed. No order as to costs.

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

  
(Smt. Lakshmi Swaminathan )  
Vice Chairman (J)

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