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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 2612/2000

New Delhi this the 20th day of December, 2000.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI S.A.T.RIZVI, MEMBER (A)

H.D. Rege
S/o Shri D.S. Rege
C/o Shri V.P. Sehgal
R/O H. No. 1160 A, First Floor
Gali No. 12, Govindpuri
Kalkaji
New Delhi-19. Applicant

(By Shri B.N. Bhargava, Advocate)

-versus-

1. Union of India through
Cabinet Secretary
Cabinet Secretariat
New Delhi.
2. The Secretary (R)
Bikaner House
Shahjahan Road
New Delhi.
3. Joint Secretary (Pers)
Cabinet Secretariat
New Delhi-3. Respondents

O R D E R (ORAL)

Shri Justice Ashok Agarwal :

On a charge of unauthorised absence, a penalty of removal from service has been imposed upon the applicant by the disciplinary authority by his order passed on 16.1.1998 at Annexure A/1. After the passing of the aforesaid order on 16.1.1998 by the disciplinary authority, applicant ^{has} belatedly on 21.2.2000 at Annexure A/7 preferred an appeal. According to him, no order thereon has so far been passed. By the present OA, he seeks to impugn the aforesaid order of penalty imposed upon him by the disciplinary authority on 16.1.1998.

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2. It is, inter alia, contended by Shri B.N. Bhargava, the learned counsel appearing in support of the OA that a copy of the enquiry report had not been served upon him. He was accordingly deprived of making a representation. The entire disciplinary proceedings including the order of penalty will, therefore, stand vitiated.

3. In our judgement, there is no merit in the aforesaid contention. As has been pointed out by the disciplinary authority in his order, that a copy of the enquiry report had been duly served upon Shri D.S.Rege, the father of the applicant in September 1997. In spite of that, the charged officer had not submitted any representation. It is not disputed before us that the said report had been served upon Shri D.S.Rege, the father of the applicant. All that is contended is that the same ought to have been served on the applicant himself. A further averment is made that the fact remains that the applicant is not in possession of the enquiry report. If the report had been duly served upon applicant's father, it is inconceivable that the same did not reach the hands of the applicant.

4. As far as the applicant is concerned, in the preliminary enquiry held on 31.1.1997, he had appeared before the enquiry officer and admitted the charge against him. By submitting a representation on 31.1.1997, he had admitted the charge of his unauthorised absence from 26.2.1996 till the date of preliminary hearing on 31.1.1997. Thereafter on

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21.2.1997, he had submitted before the enquiry officer that he had nothing more to state than what he had already stated during the preliminary hearing on 31.1.1997. In view of the aforesaid admitted position, nothing survived in the disciplinary proceedings. On the aforesaid admitted facts, the order of penalty is fully justified.

5. It is next contended by Shri B.N.Bhargava that all that the ~~applicant~~ has admitted before the enquiry officer is that he was absent. According to him, there was just and sufficient cause for his absence. Applicant during the relevant period was unwell. Applicant in support of his aforesaid case, has submitted two medical certificates. A perusal of the same indicates that the same does not even pertain to the period which is the subject matter of the charge. Whereas the unauthorised absence is for the period 26.2.1996 to 31.1.1997, the medical certificates pertain to 18.2.1998 to 30.4.1998 and 21.1.2000 to 21.2.2000. When the aforesaid position was pointed out to Shri Bhargava, he stated that he is willing to bring medical certificate also for the period which was the subject matter of the charge. In our view, the case made out by the applicant being unwell is totally false and deserves to be rejected.

6. As far as the appeal which has been filed by the applicant impugning the order of penalty issued by the disciplinary authority is concerned, the same has been belatedly filed on 21.2.2000 which is well after a lapse of two years after passing of the impugned order. In regard to the delay in filing the appeal,

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this is what has been stated by the applicant:-

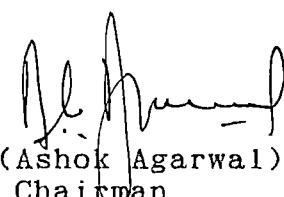
"That the applicant is now residing in Delhi and had made an appeal dt. 21.2.2000 against the order dt. 16.1.98 with the idea that since no specific time for making an appeal in the D/O is given, the applicant has right to make appeal under rule 25 of CCS, CCA Rules 1965. When no reply was received upto 2.5.2000 and the applicant was not allowed to enter the office even, the applicant then made a reminder thereon. Copies of both these appeals are annexed herewith as annexures A/7 & A/8 respectively."

Aforesaid reasons justifying the delay have merely to be mentioned for being rejected. Hence, if any ^{appeal} cognizance is taken of the delayed ~~no~~ justifiable grievance can be made by the applicant.

7. For the foregoing reasons, we find that the present OA is wholly without merit. The same is accordingly dismissed in limine.



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



(Ashok Agarwal)
Chairman

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