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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

1) O.A. No. 301/90

New Delhi this 10th day of June, 1994.

Hon'ble Mr. S.R. Adige, Member (A)

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

Shri J.C. Tetwal,
s/o Shri Roop Chand,
r/o D-2/68, Madangir,
New Delhi

.....Applicant.

Versus

1. The Secretary (Services)
Delhi Administration,
5, Alipur Road, Delhi.

2. Delhi Administration,
5, Alipur Road, Delhi
(through its Chief Secretary) ... Respondents

2) O.A. No. 1938/89

Shri J.C. Tetwal,
S/O Shri Room Chand,
R/o D-2/68, Madangir,
New Delhi

.....Applicant.

Versus

1. Delhi Administration,
5, Alipur Road, Delhi
(through its Chief Secretary)

2. Union of India,
Ministry of Home Affairs,
Govt. of India, New Delhi.
(through its Secretary) Respondents.

Shri B.S. Charya for the applicant.

Mrs. Avnish Ahlawat for the respondents.

JUDGMENT

By Hon'ble Mr. S.R. Adige, Member (A)

O.A. No. 1938/89 and O.A. No. 301/90 have been filed by Shri J.C. Tetwal, Grade II, DASS, and as the two O.A.s are inter-related, they are being disposed of by this common order.

O.A. No. 1938/89

The applicant Shri J.C. Tetwal has impugned the memorandum dated 10.3.89, whereby the

Chief Secretary, Delhi Administration (Respondent No.1) contemplates to enhance the punishment from stoppage of one increment with cumulative effect, to that of reduction to the post of Kanungo.

2. The applicant was appointed as a Kanungo in 1969 and was promoted as Grade II (E) in 1975, and in that year, he was posted to work with the Directorate of Food and Civil Supplies. It is alleged that on 2.6.75, he was asked to verify certain ration cards but he did not perform that job properly. A departmental enquiry was initiated against him. The Enquiry Officer, after holding his report dated the enquiry, in/ 22.8.81 exonerated the applicant from the charges levelled against him and the said report was sent to the Disciplinary Authority i.e. Commissioner of Food and Civil Supplies. The said Disciplinary Authority did not agree with the Enquiry Officer's findings and issued a show cause notice to the applicant as to why he should not be dismissed from service after holding him guilty. The Disciplinary Authority thereafter passed an order dated 18.12.81 holding the applicant guilty of misconduct and imposing upon him the penalty of withholding of the increment with cumulative effect. The applicant filed an appeal to the Chief Secretary, Delhi Administration. Meanwhile, the Disciplinary Authority issued a show cause notice as to why the penalty should not be enhanced to withholding of five increments with cumulative effect. The applicant sent a reply to the said show cause notice on 17.7.82 which was addressed to the Chief Secretary. However,

on 18.8.82, the Disciplinary Authority, namely, the Commissioner, Food & Civil Supplies passed an order enhancing the penalty to withholding of five increments with cumulative effect. The applicant challenged this order in T.1030/85(G.W.No.1523/84) and he also challenged the original order dated 15.12.81 inflicting the penalty of withholding of one increment. The matter was considered by the Tribunal which by its judgment dated 4.2.87 partly allowed the application; struck down the impugned order dated 18.8.82; and remanded the case to the appellate authority for disposal in accordance with law.

3. It appears that the appellate authority (Chief Secretary) considered the appeal filed by the applicant and also gave the applicant personal hearing. Thereafter, by order dated 10.3.89(Annexure-P1), the appellate authority rejected the applicant's appeal and held that there ^{was} ~~was~~ sufficient justification on the part of the Disciplinary Authority ~~on the part~~ ~~of the Disciplinary Authority~~ to dis-agree with the findings of Enquiry Officer, but while imposing ^{the} ~~the~~ penalty, the gravity of the mis-conduct done by the applicant was not taken into consideration, and proposed to impose a penalty of reduction in rank i.e. reversion to the post of Kanungo where from he was promoted to Grade II, DASS. The applicant was directed to show cause within 15 days as to why the penalty of reduction in rank should not be imposed. It is against that order, that the applicant has filed this O.A. It further appears that on 6.3.89 i.e. four days before the appellate authority passed ^{the} ~~the~~ order dated 10.3.89, the applicant had filed a petition withdrawing his appeal, and rejection of that prayer was communicated

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to the applicant vide appellate authority's order dated 4.5.89 (Annexure-P2). No mention of withdrawal by the applicant of his appeal has been made in the impugned order dated 10.3.89.

4. We have heard Shri B.S.Charya, learned counsel for the applicant and Mrs. Avnish Ahlawat, learned counsel for the respondents.

5. As the O.M. dated 10.3.89 is by no means a final order, we are of the view that no interference is called for at this stage, particularly in view of the fact that there is a catena of judgments deprecating interference by the Tribunal at interlocutory stages.

6. Under the circumstances, the applicant is given one month from the date of receipt of a copy of this order, to file his reply in response to the order dated 10.3.89 calling upon him to show cause against the penalty of reduction in rank. While considering the reply, if the applicant takes the plea that he has withdrawn the appeal, the respondents, in all fairness, should consider the same, notwithstanding the fact that it has been rejected vide order dated 4.5.89, in the background that the applicant has been under the cloud of the departmental proceeding since June, 1975 i.e. 19 years.

7. The appellate authority (respondent no.1) will pass a reasoned order on the reply filed by the applicant, within three months from the date of receipt of a copy of this order.

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After disposal of the applicant's reply, the respondents should pass a reasoned order on the applicant's representation dated 9.2.90 to promote the applicant in Grade I w.e.f. 13.1.90. The said order should be passed within two months.

Both the O. As are disposed of in terms of above directions. No costs.

Let a copy of this order be placed on the file of O. A. No. 301/90.

Lakshmi Swaminathan
(LAKSHMI SWAMINATHAN)
MEMBER (J)

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(S.R. ADIGE)
MEMBER (A)