

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

O.A.No.2036 of 1989

New Delhi, this the 9th day of May, 1994.

Hon'ble Mr Justice S.K.Dhaon, Vice Chairman.
Hon'ble Mr B.N.Dhoundiyal, Member(Admn.)

Shri R.K. Sinha
S/O Shri Jagdish Sinha
II/12 CMRS Colony
Barwa Road
Dhanbad 826 001
at present working as Senior Scientific Assistant,
CMRS, Dhanbad 826 001; through:
(Mr K.K.Rai, Advocate) Applicant.

vs.

1. CSIR(Council of Scientific & Industrial Research) through its Director General Anusandhan Bhawan, Rafi Marg, New Delhi.
 2. CMRS(Central Mining Research Station) through its Director Barwa Road Dhanbad 826 001.
 3. Sh.Dr.B. Singh, Director CMRS Barwa Road Dhanbad 826 001.
- Respondents.
(through Mr V.K.Rao, proxy counsel for Mr A.K. Sikri for the respondents).

ORDER

JUSTICE S.K.DHAON, VICE CHAIRMAN(CRAL)

The applicant and S/Shri Y.M.Thakur and S.K.Rahamtullah were subjected to a common disciplinary proceedings. They were given separate charge-sheets on 21st April, 1984. Thereafter, the disciplinary proceedings were held and they were common to the aforesaid three persons. On 20th March, 1987 and 22nd April, 1987, the Board of Inquiry submitted its report to the Disciplinary Authority(Director, Central Mining Research Station. On 22nd September, 1987, the Disciplinary Authority reverted the applicant

8/5/94

to an inferior post for a period of five years. Separate punishments were awarded to S/Shri Y.M.Thakur and S.K.Rahamtullah.

2. The applicant, Y.M.Thakur and S.K.Rahamtullah preferred separate appeals. These appeals were disposed of by a common order on 22nd May, 1989. The orders passed by the Disciplinary Authority and the Appellate Authority are being impugned in the present application.

3. It appears that S/Shri Y.M.Thakur and S.K.Ramatullah came to this Tribunal by means of O.A.Nos.2041/89 and 2021/89, respectively, which were decided on 13th January, 1993. Two learned members of this Tribunal (Hon'ble Mr Justice Ram Pal Singh, Vice Chairman and Hon'ble Mr I.K.Rasgotra, Member) accepted the said O.As in part and quashed the appellate order dated 22nd May, 1989 as the Bench felt that the appellate authority had passed its order without applying its mind. The Bench directed the appellate authority to hear the appeals of Y.M.Thakur and S.K.Ramatullah afresh on merits and in accordance with law.

4. The learned counsel for the applicant has advanced two submissions in support of this application. The first is that the appellate order deserves to be quashed on the ground on which the earlier Bench had quashed it. The second contention is that even the order of the Disciplinary authority is liable to be set aside as it differed from the recommendations of the Board of Inquiry, without affording an opportunity of hearing to the applicant. We note that even this contention has been noticed by the earlier Bench in O.A.No.2041/89 yet, the Bench considered it proper in the circumstances of the case not to quash the

84

order of the disciplinary authority but to send the matter back to the appellate authority for the re-hearing of the appeals of S/Shri Y.M.Thakur and S.K.Rahamtullah.

5. Having considered the matter from the angle of comity in judicial orders, we are inclined to follow the course adopted by the earlier Bench. We have already stated that the three persons, including the applicant, were subjected to a common inquiry. It would be anomalous if we send the matter back to the disciplinary authority. We, however, make it clear that it will be open to the applicant to raise all possible pleas, which are admissible under law, before the appellate authority, including the one that the order passed by the disciplinary authority was in violation of the principles of natural justice, in so far as it disagreed with the findings recorded by the Board of Inquiry without affording ^{an} opportunity of hearing to the applicant. We make it clear that it will be in the domain of the appellate authority to examine the question as to whether, in fact, the disciplinary authority disagreed with the recommendations made by the Board of Inquiry.

6. In the result, the application succeeds in part. The order dated 22nd May, 1989, passed by Director General, Council of Scientific and Industrial Research, acting as appellate authority, is quashed. The appellate authority shall re-hear the appeal of the applicant and dispose of the same on merits and in accordance with law and in the light of the observations made above. As directed in the judgment dated 13th January, 1993 in O.A.No.2041/89, we direct that till the appellate authority disposes of the appeal, the order passed by the disciplinary authority on 22nd September, 1987 shall remain in abeyance. No costs.

(B.N.Dhondiyal)
Member(A)

(S.K.Dhaon)
Vice Chairman