

(7)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.2430/89

New Delhi this the 27 day of May, 1994.

HON'BLE SHRI S.R. ADIGE, MEMBER (A)
HON'BLE SMT LAKSHMI SWAMINATHAN, MEMBER (J)

Shri P.K. Jain,
S/o Shri Jai Chand Jain,
Sr. Auditor,
C.D.A. (AF), West Block VI
RK Puram, New Delhi.

C/o Dr. S.B. Aggarwal,
AP House, 19, IIT Campus,
NEW DELHI.

...Applicant

By Advocate : Shri V.P. Sharma

Versus

1. Union of India, through
The Secretary,
Ministry of Defence,
New Delhi.

2. Controller General of Defence Accounts
West Block, -V,
R.K. Puram, New Delhi.

3. C.D.A. (ORs)
North, Meerut.

....Respondents

By Advocate : Shri PH Ramchandani

ORDER

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

In this application, Shri P.K. Jain has impugned the Order dated 4.10.1985 passed by the Controller of Defence Accounts (North), Meerut withholding his increment for 3 years with cumulative effect (Annexure -3) which has been upheld in appeal by Order dated 5.3.1986 (Annexure-5) and in revision by Order dated 28.10.1988. (Annexure-6)

2. The applicant who claims to be the Vice Chairman of the All India Defence Accounts Association (C.B. Poona), Meerut Branch states that on 27.9.1984, he was in the Chamber of the Assistant Controller of Defence Accounts, in the Office of the Controller

Defence Accounts (North) Meerut in connection with ^{an} ~~the~~ official matter, when he heard ^a ~~the~~ crowd of persons making noise and shouting slogans. He states in his capacity of Vice Chairman, AIDAA, he went towards the crowd and learnt ^{that} one Shri Inderjit Singh an employee of C.D.A. (Central Command) Meerut, had died of an heart attack because he could ^{not} be given timely medical aid for want of a vehicle. The applicant alleges ^{that} ~~the~~ Controller of Defence Accounts who was on the spot, refused to lend ^{his} ~~car~~, behaved improperly with the staff, and did not come to the aid of the ailing official, and ~~for~~ for this reason the crowd was very agitated with his behaviour. Meanwhile, the police arrived and the crowd dispersed. The applicant and others managed to take the ailing official to the Military hospital but upon reaching there, he was declared dead. Thereafter, the applicant remained the whole day with the dead body till the same was handed over to his family members. The applicant states ^{that} he was not at all involved in the slogan shouting etc, but on 16.11.1984 he was served with a chargesheet for allegedly contravening the provisions of CCS (Conduct Rules), 1964. He alleges that he was being punished only because he was the Vice Chairman of the AIDAA. He submitted his reply to the chargesheet on 5.12.84, but without providing any opportunity of being heard, he was penalised by upholding three increments, for three years with cumulative effect by ^{the} ~~an~~ impugned order 4.10.85. His appeals as well as his revision petitions were rejected compelling him to come to the Tribunal.

3. The respondents have challenged the contents of the O.A. in their counter affidavit and have stated that Shri Inderjit Singh died in harness about half an hour after reporting for duties on the morning

of 27.09.84. In fact, the best possible effect was made to provide timely medical aid to him, by calling for a ~~for a~~ C.G.H.S. Doctor, ^{and he} on his advice Shri Inderjit Singh was moved to the military hospital, where it was found, ^{that} it was too late to do anything in the matter. It is stated some of the unruly elements thereupon exploited the depressed mood of the staff and whipped up emotions resulting in unruly behavior, destruction of government property. Out of 11 employees, three belonging to the C.D.A. (North) ⁱⁿ were the organisers ^{of} ~~the~~ unruly activities, and the applicant was one of the three such employees. It is denied that the applicant is being punished because of ^{in his association} ~~violation~~ with the AIDA. It is also denied that the applicant was not given an opportunity of being heard. It is stated that he submitted a reply to the chargesheet, ^{and} that the reply was duly taken into consideration by the disciplinary authority before imposing the penalty upon him.

4. We have heard Shri V.P. Sharma, learned counsel for the applicant and Shri P.H. Ramchandani, Senior Standing Counsel for the respondents.

5. Shri V.P. Sharma, has invited our attention to the judgement of this Tribunal dated 18.3.93 in O.A. 1612/87 Lokesh Murti Vs Union of India relating to this very incident, in which the applicant is alleged to have participated. In that O.A., Lokesh Murti who was the Chairman AIDA had challenged the action of the respondents in holding ^{him} ~~the applicant~~ ^{the applicant} ~~the applicant~~ Lokesh Murti guilty of having violated C.C.S. (Conduct) Rules ^{and} ^a imposing ~~the~~ penalty upon him for participation in this ⁱⁿ ~~in this~~ incident. In that O.A., the Tribunal after hearing both the parties had allowed the application

and had quashed the order dated 4.10.1985 withholding ^{that} applicant's increment for 3 years, and had also quashed the transfer order dated 4.10.85 but had left it open to the respondents to hold an enquiry into the matter in accordance with law or to take such other action as they deem ^{it} fit, in accordance with law.

6. As ^a coordinate Bench, we are bound by the judgement dated 18.3.93, in that O.A.1612/87, which relates to ^{the} matters arising out of the same incident, ^{and is} based upon the same facts.

7. Under the circumstances, the impugned order dated 4.10.85 (Annexure III) as well as the appeal ⁱⁿ order dated 5.3.86 (Annexure V) and the revisionary order dated 28.10.88 (Annexure VI) are quashed and set aside leaving it open to the respondents to hold any further enquiry into the ^{matter} or to take such other action as they deem fit, in accordance with law.
No costs.

Lakshmi Swaminathan
(SMT LAKSHMI SWAMINATHAN)
MEMBER (J)

S.R. Adige
(S.R. ADIGE)
MEMBER (A)