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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. 323 of 1989

New Delhi this the 15th day of April, 1994

Mr. Justice S.K. Dhaon, Vice-Chairman
Mr. B.K. Singh, Member

Shri Bodh Raj Sabharwal
working in the office of Central
Water Commission, Sena Bhawan,
R.K. Puram, New Delhi.
None for the Applicant

....Applicant

Versus

1. Union of India through
Secretary,
Min. of Water Resources,
Shram Shakti Bhavan,
Rafi Marg,
New Delhi.
2. Secretary,
Min. of Energy,
Department of Power,
Shram Shakti Bhawan,
Rafi Marg,
New Delhi.
3. The Chairman,
Central Water Commission,
Sewa Bhawan,
R.K. Puram,
New Delhi.

...Respondents

None for the Respondents

ORDER (ORAL)

Mr. Justice S.K. Dhaon, Vice-Chairman

In this O.A. basically the order of punishment passed against the applicant has been challenged. However, the following prayers, as material, have been claimed:-

- 1(a) to grant selection grade of L.D.C. to the applicant w.e.f. 1.7.1976;
- (b) to grant promotion to the applicant as U.D.C. from 1.7.77 on which date 300 juniors were promoted;
- (c) to grant promotion to the applicant as Assistant w.e.f. 1.5.85 with all pecuniary benefits ensuing therefrom;
- 2(a) to hold that the findings of the inquiry officer are perverse and unsustainable being given against the evidence on record and quash the final order

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of review dated 8.8.1988 consequently quashing all earlier orders, i.e., original order and order in appeal;

(b) to hold that the order in appeal is bad in law being non-speaking order without any reasons whatsoever;

3. for granting benefits reserved, admissible for applicant being SC employee; and

4. to keep the applicant in cadre of Department of Power instead of present one.

2. On 28.02.1989, this Tribunal admitted this O.A. in so far as relief in Para 2 of the prayer is concerned. They gave liberty to the applicant to file separate application in regard to other reliefs, if so advised, in accordance with law.

3. We have, therefore, to examine whether the applicant is entitled to any relief, as claimed in paragraph 2.

4. A counter-affidavit has been filed on behalf of the respondents. We have gone through the contents of the same. Departmental proceedings were initiated against the applicant under Rule 14 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965. Three charges were levelled against him. The first was that he, while

functioning as Lower Division Clerk in the Department of Irrigation/Central Water Commission during the period 1974-75, was indulging himself in private trade along with his son Shri Raman Kumar Sabharwal by running a firm in the style of M/s Arkay Traders dealing in T.Vs., Radios and Electrical goods at Shop No.100, Central Market, Lajpat Nagar, New Delhi without the previous sanction of the Government. He also did not report to the Government about the engagement of his son in the said trade.

5. The second charge was that the applicant, while functioning as a Lower Division Clerk in the erstwhile Ministry of Irrigation and Power during the year 1970, acquired Shop

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No.100, Central Market, Lajpat Nagar, New Delhi without the previous sanction of the Government.

6. The third charge was that the applicant, while functioning as a Lower Division Clerk in the erstwhile Ministry of Irrigation and Power/Central Water Commission during the period commencing from the year 1957 to 19th May 1975, acquired one Televista Elite T.V. 20 inches with voltage stabliser worth Rs.3000/-, one Allwyn Refrigerator worth Rs.3,500/- and one Recold Air Cooler for Rs.700/- without the previous sanction of the prescribed authority, nor he reported the said transctions to the prescribed authority.

7. The enquiry officer gave a well discussed report running into 14 pages and held that the aforementioned three charges were brought home to the applicant. The disciplinary authority, while agreeing with the opinion expressed by the enquiry officer, on 12.12.1978 in the purported exercise of power under Rule 15(4) of the aforementioned rules imposed upon the applicant the penalty of reduction to a lower stage in the time scale of pay specified in clause (v) of the Rule 11 reducing his pay to Rs.382/- in the scale of pay of Rs.260-6-290-EB-6-326-8-366-EB-8-390-10-400 for a period of three years commencing from the date of issue of the order with the stipulation that he will not earn increments of pay during the period of such reduction and further that on the expiry of this penalty period of three years such reduction in his pay shall have the effect of postponing the future increments of his pay.

8. On 22.02.1979, the Under Secretary to the Government of India by means of an Memorandum informed the applicant that his appeal had been considered by the appellate authority and that authority did not find any justification for interference with the orders of the disciplinary authroity. It appears that after the communication of the appellate order, ~~the~~ the applicant did not care to ask the respondents to supply with him a copy of order the said

nor have the respondents filed a copy of the said order along with the counter-affidavit.

9. On 31.05.1979, the applicant was informed by the Under Secretary that his prayer for reconsideration of the appellate order has been rejected. On 8th August, 1988, the President upon a petition filed by the applicant passed a detailed order confirming the order of disciplinary authority. This order discloses reasons.

10. We may immediately deal with the submission made in the appeal that the appellate authority passed his order mechanically and without application of his mind and without giving any reasons. We have already indicated that the order of the appellate authority is not before us and for that, the applicant is ^{not} free from blame. He should have asked the authority concerned to supply the order of the appellate authority. Instead, he chose to file a review application.

11. However, the defect, if any, is cured by the detailed order passed by the President in the review application filed by the applicant. We have seen the order of the President and we find that cogent reasons have been given by him for endorsing the view point of the disciplinary authority.

12. We have considered the matter with care it deserves and we find that no illegality is discernible in the order of the disciplinary authority or the President. No ground, therefore, exists for interference.

13. Before parting with this case, we may indicate that the disciplinary authority modified the order ^{of} punishment later on. As already indicated, in view of the order passed by this Tribunal on 28.02.1989, we are not required to go into the question of the legality of the modified order passed.

14. This application is dismissed but without any order as to costs.

(B.K. SINGH)
MEMBER (A)

(S.K. DHANON)
VICE CHAIRMAN

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