

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

6

Regn. No. OA-1583/88
MP-2256/88

Date of decision 21-02-1989.

Shri Gautam Farid

.....Petitioner

Vs.

Union of India

.....Respondents

For the petitioner

.....Shri G.D. Bhandari,
Counsel

For the respondents

.....Mrs. Shashi Kiran,
Counsel

CORAM:

THE HON'BLE MR. P.K. KARTHA, VICE CHAIRMAN(J)

THE HON'BLE MR. P. SRINIVASAN, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*
2. To be referred to the Reporters or not? *No*

JUDGMENT (ORAL)

(The judgment of the Bench delivered by
Hon'ble Mr. P. Srinivasan, Administrative Member)

This application has come up before us today to consider the Misc. Petition filed by the respondents in the said application for vacation of the stay ordered ^H ~~passed~~ by this Tribunal on 7.9.1988. When the matter came up for hearing, we felt that the original application itself could be disposed of after hearing counsel for both sides. We, therefore, proceeded to hear counsel on the both sides on the merits of the application.

R. Srinivasan

7

2. Shri Bhandari, learned counsel for the applicant submitted that the applicant had been wrongly punished with removal from service by order dated 20.11.1982 passed by the Disciplinary Authority for his alleged absence from duty unauthorisedly from 21.7.1981. The applicant was involved in an accident and, therefore, was unable to report for duty. In any case, Shri Bhandari submitted that the punishment imposed on the applicant was grossly disproportionate to the charge levelled against him.

3. Mrs. Kiran, learned counsel for the respondents strongly opposed the contentions of Shri Bhandari. She submitted that the applicant's absence from duty was for a very long period and this was not the first occasion that the applicant had remained absent from duty. The Disciplinary Authority had, therefore, rightly punished the applicant by removing him from service after due consideration of the facts of the case and after agreeing with the finding of the Inquiry Officer. The applicant had filed an appeal before the Appellate Authority which had been rejected as belated.

4. We have considered the matter carefully. We find that before filing the appeal to the Appellate Authority against the punishment awarded to him, the applicant had sought for copies of the documents including the copy of the Inquiry Report for enabling him to file a proper appeal. According to Mrs. Kiran, however, it was the applicant who had refused to receive copies of the documents which had been sought to be served on him.

P. S. K.

8

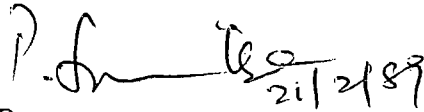
Shri Bhandari on the other hand contends that the relevant documents were not supplied to the applicant for a long time and that was why he filed his appeal to the Appellate Authority on 13.1.1988 without the help of these documents. On the facts of this case, we are of the view that while the applicant was indeed guilty of the charge levelled against him, the punishment imposed was indeed excessive. The charge levelled against him does not involve any moral turpitude. It may be mentioned that the applicant himself sought voluntary retirement ^{M in 1982} before he was removed from service for long absence from duty. We, therefore, feel that in the circumstances of this case that an adequate punishment would have been compulsory retirement by which the applicant would get the benefit of his past service.


5. ^{M the} In view we have taken above, the orders of the Disciplinary Authority dated 20.11.1982 and of the Appellate Authority dated 24.5.1988 are hereby modified and the ^M penalty imposed on the applicant is reduced to one of the compulsory retirement w.e.f. 20.11.1982. The respondents will settle the retirement dues to the applicant in accordance with the rules as expeditiously as possible and in any case not later than ^{M 30.4.1989} ~~20.4.1989~~ and the applicant will vacate the Government quarter allowed to him not later than 31.5.1989.

9

6. The application is disposed of on the above terms leaving the parties to bear their own costs.

7. A copy of this order may be served on both the sides immediately after it is signed by us.


(P. SRINIVASAN)
MEMBER (A)


(P.K. KARTHA)
VICE CHAIRMAN(J)