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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No.
T.A. No.

306

198⁸

DATE OF DECISION 25.3.1988

Shri M.C. Agarwal

Applicant
XXXXXX
Petitioner

Applicant in person.

XXXXXXXXXXXXXXXXXXXX
Advocate for the Petitioner(s)

Versus

Union of India & another

Respondent^s

Shri Suresh Kumar, EO D-II,
CPWD,


XXXXXXXXXXXXXXXXXXXX
Advocate for the Respondent(s)


CORAM :

The Hon'ble Mr. Justice K. Madhava Reddy, Chairman

The Hon'ble Mr. Kaushal Kumar, Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ? Yes
2. To be referred to the Reporter or not ? No
3. Whether their Lordships wish to see the fair copy of the Judgement ? No
4. Whether to be circulated to all the Benches ? No


(Kaushal Kumar)
Member


(K. Madhava Reddy)
Chairman

25.3.88

(3)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI.

REGN. NO. CA 306/88

Date of decision: 25.3.88

Shri M.C. Agarwal ----- Applicant

Vs.

Union of India & another ----- Respondents

CORAM: Hon'ble Mr. Justice K. Madhava Reddy, Chairman
Hon'ble Mr. Kaushal Kumar, Member

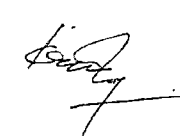
For the Applicant ----- Applicant in person.

For the Respondents ----- Shri. Suresh Kumar,
EO D-II, CPWD.

(Judgement of the Bench delivered by Hon'ble
Mr. Justice K. Madhava Reddy, Chairman)

This is an application under Section 19 of the Administrative Tribunals Act, 1985 to declare the applicant exonerated on the ground that the charge-sheet issued against him on certain allegations was malafide and was issued in order to protect the corrupt officers and unscrupulous contractors, to declare the order dated 7.1.63 placing him under suspension as unjustified and to treat the period of suspension as on duty for all purposes and to pay full pay and allowances for the period of suspension. The applicant also prays for payment of Travelling Allowance Bills and promotion as Assistant Engineer with effect from 13.3.1963 and as Executive Engineer from the date when the Assistant Engineers on the ^{list} basis of seniority/of 13.3.1963 were promoted with all consequential benefits and allow him interest at the rate of 24% per annum on the arrears of pay and allowances and Transfer Allowance claim that may be now decreed.

2. The reliefs now claimed by the applicant are primarily dependent on the question whether the penalty of stoppage of one increment for three years without cumulative effect was valid and if not whether the Tribunal now could set it aside. That penalty was imposed on 8.11.74. The



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applicant preferred an appeal against that order which was dismissed on 3.8.1976. Then he carried the matter in revision. Revision petition was also dismissed on 1.10.76. The present application calling in question the imposition of that penalty has been filed on 19.2.1988. After the order imposing penalty had become final and his revision petition was dismissed, the applicant did not move the High Court or any other court calling in question these disciplinary proceedings or the impugned order dated 8.11.1974. That order having become final cannot be called in question at this distance of time. So far as this Tribunal is concerned, it cannot entertain any matter which had become final more than three years prior to the constitution of the Tribunal i.e. 1.11.1982. The order dated 8.11.74 imposing the penalty of stoppage of one increment for three years without cumulative effect, having become final prior to 1.11.1982, the earlier order dated 7.1.63 placing him under suspension cannot be said to be unjustified. Be that as it may, against the order of suspension he had preferred an appeal. That appeal was dismissed as time-barred. His request for condonation of delay was also rejected. We too see no reason to condone the delay and to direct the appellate authority to dispose of the appeal on merits when the order imposing the penalty has become final. The applicant, who is appearing in person, draws our attention to the Office Memorandum dated 3.12.1985 issued by the Government of India, Ministry of Personnel & Training, Administrative Reforms and Public Grievances & Pension which inter alia directs that where departmental proceedings against a suspended employee for the imposition of a major penalty finally end with the imposition of a minor penalty, the suspension can be said to be wholly unjustified in terms of FR(54-B) and the employee concerned should, therefore, be paid full pay and allowances for the period of suspension by passing a suitable order. On the basis of this Office Memorandum


[Signature]

the applicant claims that although the suspension order had become final since the departmental proceedings had ended with the imposition of a minor penalty, the period of suspension should be treated as the period spent on duty. The Office Memorandum dated 3.12.85 does not envisage the reopening of matters which have concluded by the efflux of time. If there was sufficient ground for condoning the delay only then the question whether the circular would apply or not inasmuch as the delay is condoned, would have arisen. As the appeal itself was treated as time barred, the question of examining the merits of the suspension order in the light of the subsequent Office Memorandum does not arise. Even otherwise, we do not find any merit in the contention that the suspension order was not justified.

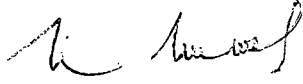
3. The applicant draws our attention to the order dated 27.1.88 rejecting his review application dated 26.4.1980 filed against the order dated 1.10.76. Assuming that the order dated 27.1.88 brings this application within ~~xxx~~ time, even on merits we see no reason to admit this application.

4. Rest of the reliefs depend upon whether the penalty imposed was proper or not. Since the order imposing the penalty has become final, these other reliefs cannot be entertained.

5. However, so far as the claim for payment of Travelling Allowance Bills stated to be pending with the department is concerned, that claim does not come within the scope of the disciplinary proceedings and cannot be allowed to be agitated in this application. If the applicant intends to claim/ the same, he may move a separate application under Section 19 of the



Administrative Tribunals Act, 1985. Nothing said herein will stand in the way of considering that claim on its own merits. This application is accordingly dismissed at the admission stage itself.



(KAUSHAL KUMAR)
MEMBER

25.3.88



(K. MADHAVA REDDY)
CHAIRMAN