CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 343/88 DECIDED ON : 17.09.1993

D. K. SAINI ... PETITIONER

VS.

UNION OF INDIA THROUGH SECRETARY ... RESPONDENT
MINISTRY OF URBAN DEVELOPMENT
& ORS.

CORAM :
THE HON'BLE MR. JUSTICE V. S. MALIMATH, CHAIRMAN
THE HON'BLE MR. S. R. ADIGE, MEMBER (A)

Petitioner present in person

Respondent Through Shri P. P. Khurana, Counsel

O R D E R (ORAL)
(BY HON'BLE MR. JUSTICE V. S. MALIMATH)

The petitioner, Shri D. K. Saini, has challenged in this case the order imposing punishment of censure on him dated 22.9.1987 and the appellate order dated 14.12.1987 affirming the said order. He has also sought a direction in regard to non-consideration of his case for promotion when many of his juniors were promoted by order dated 6.10.1987 from the post of Jr. Accountant to the post of Sr. Accountant.

2. As the punishment imposed against the petitioner is a minor one, all that is required to be done is to comply with the requirements of Rule 16 of the C.C.S. (C.C.A.) Rules. That requires the petitioner being given an opportunity of showing cause in the matter. A charge memo was served on the petitioner along with the statement of allegations and he was asked to reply. The petitioner has given a reply on consideration of which

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the disciplinary authority held the petitioner guilty of the charge framed against him and imposed a minor penalty of censure. That order has been affirmed on appeal. Two contentions were urged by the petitioner who argued his case in person. His first contention is that he demanded a regular inquiry which request has not been dealt with in accordance with law. He invited our attention to the decision of the Govt. of India below Rule 16 of the Rules which in substance says that where a request is made for a regular inquiry it is appropriate that the authority applies its mind to the request and if it decides to reject the same, to do so by giving reasons. It is further stated that in cases where production of evidence and cross examination of witnesses is felt necessary, it would be reasonable to accede to the request for holding a regular inquiry. That a request was made for a regular inquiry is clear from the statement of the petitioner in his reply dated 1.6.1987. The sentence where the request is made reads as :-

> "Under the circumstances, explained above it is clear that I was not at fault, even if you think any misdeed on my part an open inquiry may please be got conducted to know the factual position of the incident."

The petitioner has not assigned any reason in support of his request. It is not stated that there is need for examining the witnesses or to cross examine them. The charge levelled against the petitioner is a very simple one in regard to the conduct of the petitioner, part of which has been admitted by him. The

charge against the petitioner was that he was using the official telephone for an unreasonable period of 15 minutes continuously at a time when it was required by a senior officer who has also a connection to the same in his office. The senior officer needed the use of telephone for official purposes. He had, therefore, to wait for an unreasonably long period. He ultimately got frustrated and sent his peon to the office of the petitioner and requested him to disconnect the telephone. The petitioner then disconnected the telephone thus enabling the senior officer to make ust of it. This part of the case is substantially agreed to though the petitioner has taken the stand that he was not using the telephone for a long period of 15 minutes and that it was not a call made by him but he was only answering the call from his sister. He also wants us to believe that the interruption was made by the senior officer himself by pressing the button off and on several times. The petitioner is then alleged to have gone to the office of the senior officer and asked him as to why he was prevented from continuing his dialogue on the telephone with his sister. The fact that the petitioner went to the office of the senior and asked him about it stands admitted. There is only a dispute in regard to what happened thereafter. Whereas the complaint against the petitioner is that he questioned the senior in an unbecoming manner, the stand of the petitioner is that he only asked him why he was not allowed to continue dialogue on the telephone. The further case against the petitioner is that not only he did not conducted himself

improperly having become angry over the phone incident, but he was also a party to the slogun mongering in which other officials also joined which resulted in disruption of work for some time. Having regard to the nature of the allegations, this is not a case which can be regarded as meritting a regular inquiry by any standard. We are, therefore, satisfied that on the merits of the case there was no justification for ordering a regular inquiry. Even if a formal order was called for and it was not made, we are not inclined to interefere in this case on this ground for we are satisfied that this is not a case which meritted regular inquiry.

3. The other contention of the petitioner is that the appellate order is not a speaking one. The order does not give any reasons for rejecting several grounds raised by the petitioner. It would have been appropriate if the order had dealt with the contentions raised by the petitioner in his appeal. Having regard to the triviality of the incident and the minor nature of the punishment imposed, we do not consider it necessary or proper to remit the case back to the appellate authority for de novo consideration of the appeal and to pass speaking order. We say so for the reason that on merits we do not find any good ground to interfere with the order imposing the penalty of censure in this case. We also say so for the reason that the respondents have placed proper material on record which we have perused during the course of hearing of this case. There is adequate material in support of the charge levelled against the

petitioned. Hence, it would not be ideal in the circumstances of this case to allow further progression of the litigation by remitting the case back to the appellate authority merely on the ground that it did not pass a speaking order. We are, therefore, not inclined to interefere on the second ground either.

4. Hence, the petitioner's challenge to the punishment of censure fails.

5. Another complaint of the petitioner is about his case for promotion to the cadre of Sr. Accountants not having been considered when several juniors of his were promoted by order dated 6.10.1987. In the reply filed, it was pointed out by the respondents that the petitioner's case was considered by the DPC held on 11.12.1987 and the petitioner was not found fit and suitable. The petitioner is right in pointing out that when the order of promotion came to be made on 6.10.1987 it was not necessary to say that that his case was considered by the DPC held subsequently on 11.12.1987. Having regard to the inadequacy in the reply filed in this case ~~which does not merit challenge after the petitioner,~~ we thought it proper to direct production of the relevant records on the basis of which promotions were accorded on 6.10.1987. Accordingly, the DPC proceedings in this behalf held on 20.4.1987 and 25.9.1987 were produced before us. On a perusal of the same we find that the case of the petitioner was duly considered and he was not found fit and suitable. Three

juniors of his were also not found fit and suitable along with several seniors of his also not found fit and suitable. We are, therefore, satisfied on the materials placed before us that the petitioner's case was duly considered and he was not found fit and suitable.

6. So far as the supersession of the petitioner is concerned, there is no good grounds for us to doubt the bonafides of the proceedings of the DPC. The petitioner submitted that the orders of censure made against him on 22.9.1987 might have weighed with the DPC in dealing with his case. If that is so, we cannot say that it was wrongly done. If there is a punishment imposed that can certainly be taken into account. But on the materials produced before us, we are persuaded to take the view that it is on the basis of other records of service of the petitioner that his case was not considered and not on account of the imposition of the penalty of censure on 22.9.1987. Even when his case was examined on 11.12.1987, it is stated that his case can be examined when his confidential reports for the year 1987 would become available. Obviously the imposition of the penalty of censure in September, 1987 would get reflected in the confidential reports for the year 1987. We also find from the records that the petitioner did have several warnings etc. to his credit much anterior to the date of consideration of his case. It is, therefore, not possible to take a view that merely because no adverse entries were communicated to him that there was no justification for superseding his case. We, therefore,

see no good grounds to accede to the contention that the respondents committed an error in not promoting the petitioner when the order was made on 6.1.1987 promoting his juniors.

7. For the reasons stated above, this application fails and is dismissed. No costs.

( S. R. Adige )
Member (A

( V. S. Malimath )
Chairman

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