



Central Administrative Tribunal Principal Bench, New Delhi

O.A. No. 2033/2020

This the 07th day of January, 2021

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

Sh. Sushil Kumar Tyagi aged 60 years,
(Retd. Asstt. Engineer) Group B,
S/o Sh. Deep Chand Tyagi,
Address: S-20/4, DLF-III,
Gurgaon (Haryana) – 122002.

... Applicant

(Mr. G L Verma, Advocate)

Versus

1. Delhi Development Authority,
(Through Vice Chairman),
Vikas Sadan, INA,
New Delhi – 110023.
2. Engineer Member,
DDA Vikas Sadan,
INA, New Delhi – 110023.
3. Commissioner (Personnel),
DDA Vikas Sadan (Near INA),
Vikas Sadan,
New Delhi – 110023.

... Respondents

(through Ms. Anupama Bansal, Advocate)

ORDER (ORAL)**Justice L. Narasimha Reddy, Chairman:**

The applicant was working as Assistant Engineer (Civil) in the Delhi Development Authority (DDA). He was issued a charge memo dated 19.09.2013 alleging that when he worked as Junior Engineer (JE) in the year 2002, he did not ensure the utilisation of the approved brand of cement and steel for construction of various structures. The explanation submitted by the applicant was found not satisfactory, and a departmental inquiry was ordered. The inquiry officer submitted his report on 29.09.2014 holding that Articles I (i), II, IV and V are proved and Articles I (ii) and III as partly proved. Taking this into account, the disciplinary authority passed order dated 23.09.2015 imposing the penalty of reduction of pay by two stages for a period of two years, with cumulative effect, with further stipulation that he will not earn increment during the period of reduction. Aggrieved by the order of the Disciplinary Authority, the applicant filed an appeal. The same was allowed on 07.01.2016 modifying the punishment to the one of censure.

2. The Revisionary Authority initiated proceedings *suo motu*, and decided to examine the correctness of the order of Appellate Authority dated 07.01.2016. A notice was issued to

the applicant and thereafter an order was passed on 24.02.2020 imposing the punishment of withholding of one increment for a period of six months, with cumulative effect. The same is challenged in this OA.



3. The applicant contends that there was absolutely no basis for initiation of the proceedings by the Revisionary Authority and at any rate, no reasons whatever are mentioned in support of the conclusion arrived at in the impugned order.
4. Notice was issued earlier. Today, we heard Mr. G L Verma, learned counsel for applicant and Ms. Anupama Bansal, learned counsel for respondents, at length.
5. The relevant facts are furnished in the preceding paragraphs. The applicant was imposed the penalty of reduction of pay by two stages for a period of two years with cumulative effect, vide order dated 23.09.2015. In the appeal, the punishment was modified to the one, of censure. It is no doubt true that the Service Regulations of the DDA provide for revision, at the instance of an employee or *suo motu* by the authority.
6. In the instant case, the proceedings were initiated *suo motu* and notice was issued to the applicant. To that extent, no illegality can be said to have crept in. However, the Revisionary Authority was under the obligation to indicate the reasons as to how the orders passed by the appellate authority



cannot be sustained in law. The mere possibility of there being another view, hardly justifies the exercise of power. The Appellate Authority is vested with the power to assess the record and come to his own conclusion. It is only when a finding is recorded to the effect that the conclusions arrived at by the Appellate Authority are perverse or not supported by any evidence, that the revisionary authority can interfere with that. A detailed discussion needs to be undertaken in this behalf.

7. In the instant case, the only observation made by the Revisionary Authority for substituting the punishment of “censure” with that of “with holding of one increment for a period of six months with cumulative effect” reads:

“AND WHEREAS, I have gone through the facts of the case and the submission made by the charged officer Shri S. K. Tyagi, A.E. (Civil). I find that the ends of justice would be met if a penalty of withholding of one increment of pay for a period of six months with cumulative effect is imposed upon Shri S. K. Tyagi, A. E. (Civil).”

Except stating that he has gone through the facts of the case, not a single reason is mentioned as to why the order of Appellate Authority warrants interference. We do not find any basis for exercise of such power.

8. The O.A is allowed and the impugned order is accordingly set aside. The result is that the punishment imposed against the applicant would be the one, of censure.

There shall be no order as to costs.



(Mohd. Jamshed) (Justice L. Narasimha Reddy)
Member (A) Chairman

/pj/sunil/vb/ankit/