In the Central Administrative Tribunal Principal Bench: New Delhi

rangang nata katan dan Pangang

1. OA No.660/87 Date of decision: 28.10.1992.

P. Ramachandra Rao

Versus

Secretary, Ministry of Finance Government of India, New Delhi tespoliano medora regulation & Others

2. OA No.114/87 Vallegga val 10070510 13.

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P. Ramachandra Rao

...Petitioner

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Secretary, Ministry of Finance Government ... Respondents of India, New Delhi & Others sasili - ti sectificab to the patifications Coram:-

The Hon'ble Mr. Justice V.S. Malimath, Chairman The Hon'ble Mr. I.K. Rasgotra, Member(A)

For the petitioner

puthodipast the transfer Mrs. Sunita Rao, Counsel.

g palagost, nort - glismar irroa Regennadae Mrs. Raj Kumari Chopra, For the respondents Counsel.

AN THE ACTION CONTRACTOR STATES OF THE MINER OF

Judgement(Oral)
(Hon'ble Mr. Justice V.S. Malimath, Chairman)

va timatacdita The petitioner who started his career as Inspector, Central Excise on the basis that he is a member of Scheduled Tribe as he had claimed in: Ambugned that he belongs to the Konda Kapu community. In compartitudity. due course, he stood promoted as Superintendent, Donalage .or Central Excise. A disciplinary inquiry was held THE STATE against him, alleging that he has secured appointment reductioner by falsely claiming that he is a member of the Konda Kapu community, a Scheduled Tribe. The charge No levelled against him was that he obtained the

fraudulent representation. appointment by 1 () 1.188 disciplinary inquiry resulted in a finding against in and made good to the the petitioner and imposition of the punishment ng sikebanak ng Kabise. Keta traped action 6.34 of compulsory retirement vide order dated 11.4.1986. ी भाग हो हिस्स हैं विदेश लक्ष्य करें

service. The petitioner has

ක්ෂය විදේශ (දේශකු) අතුම්කර ලදා ම ²² සිටි. The petitioner challenged the said decision by a uwyży ward oko canilkocz jękt way of appeal. The appellate authority by the impugned or particulty, les visible our belief allocordence dated 11.2.1987 not only dismissed order este the programme of Mile 133 of these petitioner's appeal but suo motu enhanced the penalty agur, Mariasa 'AGLIATAGES TATE !

Christian and Ulfr challenged the said decision in these two Original ton ease a al eldi tady quefo, embrecell fills to Applications. The Process to 20 1 To Selfic

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dismissal

The principal grievance of the petitioner toda serbing is that enhancement of penalty from compulsory bisser bear retirement to dismissal from service was made without saving straing the petitioner an opportunity of showing cause in the matter. There is a positive averment of the petitioner that no such opportunity given to the petitioner before the penalty was enhanced. That statement is not controverted by respondents in the reply filed. The impugned active order also does not state that any such opportunity was given to the petitioner. Hence, we are inclined to believe the statement of the petitioner that the enhancement was brought out without the petitioner being given a reasonable opportunity of being heard in the matter.

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* 1 Rule 27 (2), proviso (iv) of the C.C.S.

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(C.C.A) Rules says that:

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imposing an enhanced "no order ្នានីស្តែការពីក្រុងស្រាយ ប្រាស់ទៅ អស់ស្រាំ Lendersith (ក្រុងស្រាមម៉ែល ប្រេង ដែល

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shall be made in any other case unless កាលពាធិស្ត្រីស្រាស់ ស្រាស់ គ្រោះជាងស្នេច ស្នងសេស្ត្រីសេស្ត្រី

the appellant has been given a reasonable various is red that the carpathy a winitiative and usarcase by tem

opportunity, as far as may be, in accordance and the compart of the property of the control of t

with the provisions of Rule 16 of making ្នា នេះទេម ៩៧៩ ភ្នំ១៩០,១៩៣១ ១៥៤៣ ២២០ ១៤៩ ខែខេត្តបន្ទ ស កែ១៩០ នៃវា ១ភ្ន

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penalty."

defiging one energy are invalined being and beyond leads It is, therefore, clear that this is a case not .anoidaoitegh only of violation of the principles ofjustice but also violation of the statutory mandate. We, therefore, have no hesitation in holding that enhancement of penalty is clearly illegal and invalid. The order dismissing the appeal is also not a speaking order. No reasons have been assigned for rejecting the contention raised by the petitioner appeal. The petitioner had also sought a personal hearing and there is no reference in the impugned order as to why such a personal hearing was declined to him. In these circumstances, it's is not possible to sustain the impugned order which is a composite order, both dismissing the appeal as also enhancing the penalty of thought was brought of the penalty. being giveb a leeascasble, kroortkuir, oi being haand

For the reasons stated above, impugned order No.2/87 dated 11.2.1987 made by the President of India is hereby quashed. The case is remitted back to the appellate authority for disposal of the appeal, in accordance with law. Having regard to the circumdirect that the personal hearing stances, the petitioner before the appeal accorded to disposed of. If the appellate authority is inclined to take action for enhancement of penalty, we reserve liberty to take such action but only after giving the petitioner an opportunity of being personally heard in the matter. As this is a very old matter, we consider it appropriate to direct the appellate authority to as expeditiously entire process complete the possible, but preferably within a period of six months from the date of receipt of a copy of this judgement. Both the O.As. accordingly stand disposed of by these

Let a copy of this judgement be placed in the case file of OA-114/87.

directions. No costs.

(I.K. Rasgotra)
Member(A)

san. 28101992 (V.S. Malimath) Chairman

Court Officer Central Administrative Tribunal Principal Bench, New D Faridkot House Constnicus Alars.