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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

O.A.NO. 1719/87

Date of decision: 24.03.93.

SH. Z.D. CHOUDHARY & ORS.	PETITIONERS
	VERSUS	
UNION OF INDIA & ORS.	RESPONDENTS

CORAM:-

THE HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN
THE HON'BLE MR. B.N. DHOUDIYAL, MEMBER

FOR THE PETITIONERS	:SH.D.P. MALHOTRA, COUNSEL
FOR THE RESPONDENTS	:SH. P.P. KHURANA

ORDER(ORAL)

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

The petitioners in this case were charged with the offence of claiming LTC without actually performing the journey. The reply given by the petitioners was rightly regarded as admitting the guilt and the disciplinary authority made the order imposing the penalty of withholding of one increment without cumulative effect. The President exercised his power of revision under Rule 29 of the CCS(CCA) Rules, 1965 and enhanced the penalty to one of withholding two increments for a period of four years with cumulative effect. It is the said order made under Rule 29 that is impugned in this case.

2. What the Revisional Authority has done in this case is to advert to the order of the Disciplinary Authority and proposed to modify it by invoking the power of revision. It is stated that it proposes to hold an enquiry in accordance with Rule 14 and required the petitioners to show cause against the allegations in memo of charges duly sent

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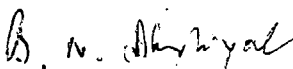
to them. Replies given by the petitioners clearly indicate that they admitted the charges levelled against them and pleaded for a lenient view being taken. It is thereafter that the impugned orders have been made without holding any regular enquiry.

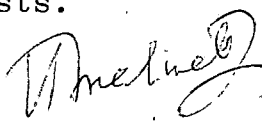
3. One of the allegations of the petitioners is that nearly 92 persons were involved in the department for the same misconduct and that most of them have been dealt with very leniently with imposition of penalty of withholding of one increment without cumulative effect and it is only in respect of the petitioners that action is sought to be taken to enhance the penalty by invoking Rule 29. In the reply, the allegation has been denied and it is asserted that action is being taken to exercise the power of revision in regard to orders of penalty made in respect of other similarly situated as well. The petitioners have asserted in the rejoinder that there is no truth in the stand taken by the respondents and that not a single order has been passed in the other cases enhancing the penalty. As the petitioners have admitted the allegations and pleaded that they be dealt with leniently and that they also be given an opportunity of personal hearing, it is obvious that it is a case in which the Revisional Authority should have given an opportunity to the petitioners to have their say in regard to the proposed enhancement of the penalty. That having regard to the allegation of discrimination would have been the most reasonable course to be adopted. The petitioners are left with the impression that they have been picked and chosen for discriminatory treatment. Having regard to the background of this case, it would have been most appropriate for the

Revisional Authority to have given a personal hearing to the petitioners in regard to the enhanced penalty. As that, in our opinion, is the just course to be adopted, we are inclined to interfere in this case.

4. We would like to make it clear that the Revisional Authority need not hold any enquiry as contemplated by Rule 14 as the petitioners have admitted the charge levelled against them and only examine the question as to what should be the proper penalty and as to whether this is a case for enhancement of penalty. For that limited purpose, we direct the Revisional Authority to give show cause to the petitioners and after considering the cause shown by them, may pass fresh orders under Rule 29 in regard to the imposition of proper penalty on the petitioners. As the recovery has already been stayed by the Tribunal during the pendency of these proceedings and as we are quashing the revisional orders imposing the enhanced penalty, it is just and proper to direct that no further recovery should be made until the Revisional Authority passes fresh orders.

5. For the reasons stated above, this petition is partly allowed and the orders of the Revisional Authority made under Rule 29 enhancing the penalty are thereby quashed and the Revisional Authority is directed to pass fresh orders under Rule 29 in the light of the observations made above. No costs.


(B.N. DHOUNDIYAL)
MEMBER(A)


(V.S. MALIMATH)
CHAIRMAN