

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 1750/87

DECIDED ON : 23.04.1993

HARI SINGH SHARMA

...

APPLICANT

VS.

UNION OF INDIA & ORS.

...

RESPONDENTS

CORAM :

THE HON'BLE MR. JUSTICE, V. S. MALIMATH, CHAIRMAN
THE HON'BLE MR. B. N. DHOUNDIYAL, MEMBER (A)

Shri Sant Lal, Counsel for Applicant
Shri P. P. Khurana, Counsel for Respondents

J U D G M E N T (ORAL)

Hon'ble Mr. Justice V. S. Malimath, Chairman :-

The petitioner, Shri Hari Singh Sharma, has challenged in this case the order made by the President for withholding for a period of three years 10 per cent of the pension payable to the petitioner. The relevant facts are these - the petitioner who was serving as a Senior Accountant in the Postal Department had drawn LTC amount of Rs.3600/- on 27.5.1983 for the journey said to have been performed by his dependents, namely, the father, wife and two sons. According to the petitioner the journey was performed in June, 1983 and a bill in respect thereof was submitted in July, 1983. The bill was formally rejected in 1985 and the petitioner was asked to deposit the amount drawn by him on the ground that the persons not having performed the journey were not entitled to claim the LTC amount. The

petitioner promptly deposited the amount in the year 1985. Nearly a year thereafter, a charge memo was issued to the petitioner on 21.7.1986 alleging that the LTC amount had been drawn without in fact the journey being performed by the petitioner's dependents. The petitioner denied the charges. The charges were amended and the petitioner gave a reply to the amended charges as well. When this was the position, the petitioner gave a statement as per annexure A-8 dated 5.11.1986 to convey that he really does not contest the case against him. As the wording of the said statement were not found to be adequate to convey admission, the petitioner filed a further statement as per annexure A-1 dated 7.12.1986. There he made a categorical admission admitting the charge levelled against him and pleading that he should be dealt with very leniently. The disciplinary authority accepted the admission of the guilt by the petitioner and found that reduction in pension to the extent of Rs.3 per month would be adequate punishment. When the matter went before the President, he was not inclined to agree with the view of the disciplinary authority in regard to the quantum of punishment. He issued a show cause notice requiring the petitioner to show cause why the pension to the extent of 10 per cent should not be withheld for a period of three years. The petitioner showed cause and inter alia contended that he made the admission before the disciplinary authority in view of the assurance given by his colleagues and the superior authorities

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that all the retiral benefits would be released to him without delay and that a nominal amount of Rs.3 would be reduced from his pension. In other words, the stand taken by him was that he made an admission in the light of the persuasion or assurance given by the authorities concerned meaning thereby the admission cannot be regarded as true or voluntary. The President on consideration of the representation of the petitioner, passed the impugned order withholding pension to the extent of 10 per cent for a period of three years. It is the said order that is challenged in these proceedings.

2. Shri Sant Lal, learned counsel for the petitioner, submitted firstly that there is no consideration of the petitioner's representation by the President wherein he has taken the stand that the admission was made having regard to the persuasion or assurance by the colleagues and the superior authorities. In support of his submission he also contended that the disciplinary authority had recommended a nominal punishment of withholding of Rs.3 from pension. In the impugned order there is a clear reference of consideration of the representation of the petitioner. There is no detailed discussion about the representation of the case put forth by the petitioner. It is also urged by the learned counsel for the petitioner that this is a case in which the penalty imposed is harsh and excessive. We consider it

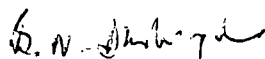
(13)

appropriate to examine the case putforth by the petitioner that he made an admission on the assurance of the superior authorities. Firstly, it is necessary to point out that as a decision had to be taken by the President in this case any assurance given by the superior authorities is not of vital importance. It is not the case of the petitioner that the authority which passed the impugned order made any assurance and secured his admission. It is difficult to believe that any one of the superior authorities or the colleagues of the petitioner would in any way be interested in persuading the petitioner to make an admission assuring him that he would be let off on a nominal punishment and that all the retirement benefits would be released in his favour. There is no reason for the authorities to make such an assurance to the petitioner as they would not have gained anything by making such an assurance. The circumstances are such as not to lend assurance about the truthfulness of the allegation of the petitioner in this behalf. It is also necessary to point out that when the bill of the petitioner was rejected in July, 1985 and the petitioner was called upon to deposit the said amount, he did so promptly and without a demur. If there was any truth in the petitioner's case, this could not have been his conduct. After all the petitioner was holding a small post of Senior Accountant in the Postal Department and the amount of Rs.3600/- is quite a substantial amount. He would have certainly resisted the claim if there was

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truth in his case. The very fact that he deposited the amount is undoubtedly a circumstance indicating his guilty mind. That the petitioner was also willing to accept the withholding of Rs.3 in the ⁶⁰pen~~is~~ion itself suggests that all that the petitioner if at all was bargaining was for a lighter punishment and not that he was really asserting his innocence. We have, therefore, no hesitation in holding that the circumstances available in this case do indicate that there is no truth in the case putforth by the petitioner that the petitioner gave the statement being persuaded by his colleagues and superior authorities that he would be let off on a nominal punishment and that his retirement benefits would be released promptly. Hence, it is not possible to accept the case putforth by the petitioner that the authorities committed an error in passing the impugned order accepting the admission made by the petitioner.

3. Having regard to the gravity of the misconduct and the fact that the petitioner was holding the post of Senior Accountant in the Postal Department we are not persuaded to take the view that the penalty imposed is manifestly unreasonable or excessive justifying ~~any~~ interference. Hence, we see no good grounds to interfere in the matter. The petition is accordingly dismissed. No costs.



(B. N. Dhoundiyal)
Member (A)



(V. S. Malimath)
Chairman