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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA.1901/87

Date of Decision: 21.05.1993

Shri D.K. Jain

Applicant

Versus

Director of Accounts .. Respondents
and others.

Shri Wasim A. Qadri

Counsel for the applicant

Shri P.P. Khurana

Counsel for the respondents

CORAM: The Hon. Mr. A.B. GORTHY, Member(A)

The Hon. Mr. C.J. ROY, Member(J)

JUDGEMENT(Oral)

(delivered by Hon.Member(A) Shri A.B. GORTHY)

The applicant while serving as an Auditor in the office of the Directorate of Accounts, Cabinet Secretariat (Special Wing), New Delhi, was served with a charge memo containing 3 articles of charges. The said charge memo dated 14.7.82 averred that the applicant during the period from 1.2.82 to 28.6.82 falsified certain entries in the letter diary, that he failed to take prompt action in placing certain documents and entitlement slips in the respective personal files of the officers and that he did not take prompt action to dispose of letters, entitlement slips and bills. After an enquiry, he was awarded the penalty of reduction to the lower stage of Rs.370/- in the time scale of pay of Rs.330-560 for a period of 2 years with cumulative effect. The appellate authority reduced the penalty to that of "with holding one

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increment for one year with cumulative effect.¹
Aggrieved by the said penalty, the applicant has
prayed that the same be set aside and quashed with all
consequential benefits.

2. The learned counsel for the applicant has
assailed the penalty order essentially on the ground
that the enquiry held was not in accordance with
Rule-14 of the CCS (CCA) Rules, 1965. No presenting
officer was appointed nor any witness^{was} were examined at
the enquiry. No documents were furnished to the
applicant to prepare or conduct his defence. Merely
based on the statement made by him in his defence, he
was found guilty of charge No.2 only pertaining to the
failure on the part of the applicant to take prompt
action in placing certain letters and entitlement
slips in the personal files of the officers concerned.
In this regard, the applicant in his defence, brought
out that ~~firstly, that~~ action to place those documents
in the relevant files was being taken periodically as
a matter of practice. He kept them with a view to
file them in the due course, but he fell ill and he
~~had~~
~~was~~ to take sick leave in the months of May and June,
1982. He could not, therefore, get time to file the
documents in respective files. Nothing has been
brought out in the so called enquiry to refute the
statement of the applicant or to substantiate the
charge levelled against him. The enquiry officer
merely refused to accept the version of the applicant
and held that as the applicant did ~~not~~^{not} file the
documents in the respective files, he was guilty of

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the charge. In fact, the appellate authority himself, in his order dated 28.3.84, observed that the enquiry in respect of the charges against the applicant was not held correctly as per Rule 14 of the CCS(CCA) Rules, 1965. ^{Appellate Authority} The ~~Enquiry Officer~~ also noted that no documents were shown to the applicant nor was he permitted to take the extracts therefrom, for the preparation of his defence. In view of the major irregularity in the conduct of the enquiry, the plea of the applicant's counsel is that the penalty deserves to be quashed. 2

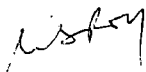
3. Shri P.P. Khurana, learned counsel for the respondents drew our attention to the fact that the major penalty imposed by the disciplinary authority was reduced to the minor penalty of withholding of increment of pay. As a minor penalty can be imposed without a proper enquiry under Rule 14, the legality of penalty cannot be challenged on the ground of any irregularity in the conduct of enquiry. He further contended that the applicant was found guilty of charge No.2 based on his own statement, and therefore, even if no witness is examined for the prosecution, it should not make any material difference. We cannot accept either of these two contentions. In the instant case, major penalty proceedings were initiated against the applicant and the disciplinary authority did, in fact, impose ^a major penalty. 6
Merely because the appellate authority converted the penalty into a minor one, it cannot be said that its validity cannot be challenged on the

ground of improper conduct of enquiry. Once the proceedings under Rule 14 of the CCS(CCA), Rules, 1965 are initiated, they must be conducted strictly in accordance with the said Rule, irrespective of the resultant penalty. As regard the respondents' contention that there was no requirement in this case to adduce any evidence because of the statement made by the applicant in his defence, we find that this statement of the applicant in his defence is not at all inculpatory. The applicant's defence was that as a matter of practice in his office, the documents being received were filed periodically and not on day to day basis. He, therefore, kept the documents with a view to file them in ~~the~~ due course, but he fell ill and had to proceed on sick leave. In view of this assertion of the applicant, it is imperative on the part of the enquiry officer to record sufficient evidence to establish the charge against the applicant. Moreover, ~~there~~ does not seem to be any dispute as regards the fact that the relevant documents were not shown to the applicant for the purpose of enabling him to prepare his defence.

4. In view of what is stated above, we are of the considered opinion that the so called enquiry held in this case, is no enquiry at all. ~~Consequently~~ ^{Consequently} ~~secondly~~ the order of the disciplinary authority and also that of the appellate authority are hereby set aside and

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quashed. The respondents will be at liberty to hold a fresh enquiry, if they so choose. There will be no order as to costs.


(C.J. ROY)

MEMBER(J)

21.05.1993

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(A.B. GORTHI)

MEMBER(A)

21.05.1993