

9

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

REGN.NO. C.A. 277/87.

DATE OF DECISION: 20th August, 92.

Shri B.P. Choudhary.

... Petitioner.

Versus

Union of India & Ors.

... Respondents.

CORAM: THE HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.
THE HON'BLE MR. I.K. RASGOPI, MEMBER(A).

For the Petitioner.

... Shri S.K. Bisaria,
Counsel.

For the Respondents.

... Shri M.L. Verma,
Counsel.

JUDGEMENT (ORAL)

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


The petitioner was working as Chief Booking and Parcel Clerk at Faridabad. A disciplinary inquiry was held against him on certain charges. The charges were held proved and an order was made on 29.8.1985 imposing the punishment of withholding of two sets of privilege passes. The petitioner preferred an appeal against the said order. The Appellate Authority, in exercise of the powers conferred ^{upon it} /being prima facie of the opinion that the case merits higher punishment, issued a show cause notice to the petitioner on 24.2.1986. The petitioner gave his reply on 15.3.1986 on consideration of which the Appellate Authority disposed of the appeal on 20.8.1986. By the said order, the appeal of the petitioner was dismissed and the penalty was enhanced to stoppage of
✓ two increments for a period of two years without cumulative

effect. The petitioner also preferred a second appeal against the said order on 3.10.1986. On the ground that the same was not disposed of and the order of penalty was given effect to, he approached the Tribunal for appropriate relief.

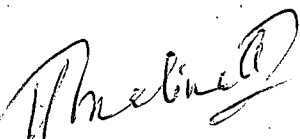
2. The principal contention of Shri Bisaria, learned counsel for the petitioner, is that the impugned order of the Appellate Authority is not a speaking order. He submitted that the Appellate Authority was required to give reasons in support of the order enhancing the penalty. It is necessary to bear in mind that a notice to show cause was issued to the petitioner in this behalf in which the appellate authority has stated that the penalty imposed by the disciplinary authority is not commensurate with the gravity of the charges held proved. The petitioner, therefore, had the opportunity of showing cause and persuading the appellate authority to take the view that the penalty imposed is commensurate with the gravity of the charges held proved. Having regard to the fact that the appellate authority was required to question the appropriateness of the punishment, no elaborate reasons or discussion was called for. The finding of guilt itself would afford the basis for the punishment to be imposed. Having regard to the gravity of the charges held proved, it is not possible to

take the view that the Appellate Authority has acted arbitrarily or in a manifestly unreasonable manner. It is also not possible to take the view that the penalty imposed by the Appellate Authority is excessive. The principal charge against the petitioner held is that he had not supplied the ^{money}/receipt books to his subordinate, who was required to perform night duty. For the amounts collected in the discharge of his duty, the petitioner's subordinate was required to issue receipts. The petitioner being Chief Booking and Parcel Clerk had the responsibility of furnishing the receipt books. It was his duty to supervise and ensure that the receipt books are available to his subordinate, and failure to do so is undoubtedly a dereliction of duty. Hence the Appellate Authority was justified in taking the view that merely withholding of two sets of passes is not commensurate with the gravity of the charges held proved. We, therefore, see no good ground to interfere.

3. For the reasons stated above, this petition fails and is dismissed. No costs.


(I.K. RASGOTRA)
MEMBER(A)

SRD


(V.S. MALIMATH)
CHAIRMAN