

In the Central Administrative Tribunal

Principal Bench: New Delhi

Regn. No.OA 286/87

Date of decision: 20.08.1992.

Shri M.H. Alavi

...Petitioner

Versus

Union of India through
Secretary, Ministry of Defence,
New Delhi & Others.

...Respondents

Coram:-

The Hon'ble Mr.Justice V.S. Malimath, Chairman

The Hon'ble Mr.I.K.Rasgotra, Administrative Member

For the Petitioner None

For the Respondents Shri M.L. Verma, Counsel.

Judgement(Oral)

(Mr. Justice V.S. Malimath, Chairman)

None appeared for the petitioner. Shri M.L. Verma, appeared for the respondents. As this is a very old case, we consider it appropriate to dispose of this case on merits.

2. A disciplinary inquiry was held against the petitioner and an Inquiry Officer was appointed. The Inquiry Officer made a report, holding that the charge levelled against the petitioner is not proved. The disciplinary authority disagreeing with the said findings of the Inquiry Officer held the charge proved and imposed the penalty of withholding of promotion for one year by order dated 13.10.1986. The petitioner has approached

the Tribunal for relief, challenging the imposition of the said penalty. There is also a prayer in regard to pay and allowances for the particular period.

3. In the grounds raised in the petition it is stated that the disciplinary authority was not justified in disagreeing with the findings of the Inquiry Officer and that the findings of the disciplinary authority are not based on evidence but on surmises and conjectures. We have perused the order of the disciplinary authority to which the reasons for disagreeing with the findings of the Inquiry Officer have been enclosed. On perusal of the same, we find that the disciplinary authority has given good and cogent reasons for disagreeing with the findings of the Inquiry Officer and has based his findings on the material placed during the course of the disciplinary inquiry. The disciplinary authority has the competence to disagree with the findings of the Inquiry Officer. The petitioner was given an opportunity to show cause. The findings are based on evidence and not on conjectures and surmises. Hence the penalty imposed is not liable for interference.

4. So far as the emoluments are concerned the grievance of the petitioner is that he should have been paid the emoluments in the scale of Rs.1500-2000. It is necessary to point out that

the petitioner was holding the substantive post in the scale of Rs.1100-1600. It was only on adhoc basis that he was holding the post in the scale of Rs.1500-2000 w.e.f. 19.2.1982. The arrangement was, however, that he should continue to receive the pay of his substantive post. The petitioner made no grievance about it at any time. It is obvious that the petitioner was continued to work against, the higher post and was drawing the pay in the lower scale. The petitioner cannot now make any grievance about his non-payment of emoluments in the higher scale. It is also not possible to accede to the contention that withholding of promotion for a period of one year should have been given effect to, treating the petitioner as having been in the post carrying the higher scale of Rs.1500-2000. We have already pointed out that it was only an adhoc appointment made as a stop gap arrangement. There was no regular promotion of the petitioner to the grade in the pay scale of Rs.1500-2000. Hence the authorities were right in withholding the promotion of the petitioner to the Junior Administrative Grade in the pay scale of Rs.1500-2000 for a period of one year.

5. For the reasons stated above, this Petition fails and is dismissed. No costs.

dkl
(I.K. Rasgotra)

Member(A)

Malimath
(V.S. Malimath)

Chairman

August 20, 1992.

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