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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 691/87

DECIDED ON : 28.9.1992

Rakesh Kumar Bhalla ... Applicant

Vs.

The Controller Defence Accounts
Chandigarh & Others ... Respondents

COURT : THE HON'BLE MR. ~~S.~~ OBEROI, MEMBER (J)
THE HON'BLE MR. P. C. JAIN, MEMBER (A)

None present for the Applicant

Shri A. K. Behra, Proxy Counsel for Shri P. H.
Ramchandani, Sr. Counsel for the Respondents

JUDGMENT (ORAL)

Hon'ble Shri P. C. Jain, Member (A) :

In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant has assailed the final order imposing the punishment of censure in pursuance of disciplinary proceedings initiated against him under Rule 16 of the C.C.S. (C.C.A.) Rules, 1965, and in this very connection he has also assailed two earlier orders — first imposing the punishment of withholding of two increments, and the second by which the above punishment was reduced to withholding of one increment. He has prayed for a direction to the respondents not to give effect to the orders dated 8.3.1984 passed by the Controller of Defence Accounts, Western Command; order dated 4.4.1985 passed by the Controller of Defence Accounts (PD); 29.9.1986 passed by the Controller General of Defence Accounts; and order dated 18.11.1986 passed by the Controller of Defence Accounts, Western Command. He has also prayed for quashing the aforesaid four orders, copies of which are placed as Annexures A-4, A-6, A-12 and A-13. He also wants that the

respondents be directed to modify his service records with a view to remove remarks, if any, including the remark of censure entered into the same as a result of the order dated 29.10.1986.

2. The respondents have contested the O.A. by filing a return to which a rejoinder has also been filed by the applicant. We have carefully perused the material on record. None is present for the applicant, but as the case is more than five years old, we consider it appropriate to dispose of the same on merits.

3. Vide memorandum dated 6.1.1984 (Annexure A-2) the applicant was issued a memo by which he was informed that it was proposed to take action against him under rule 16 of C.C.S. (C.C.A.) Rules, 1965 on the following article of charge :-

"That Shri R.K. Bhalla, Auditor, A/G No. 8312659 while serving in the office of the C.D.A.W.C. Meerut was transferred ex-Meerut to Chandigarh and relieved of his duties in that office on 9-9-83 vide letter No. AN/Res.-2048-VIII dated 9-9-83. Shri Bhalla did not join his duties in his new office and represented to the C.G.D.A. against his transfer. While representing against his transfer order vide his application dated 9-9-83 the said Shri R.K. Bhalla made baseless allegations that his name was deleted deliberately from the list of junior most individuals called for by the C.G.D.A. for local adjustment at Meerut by the AO (AN) at the very later stage just after the approval of the office copy and fair copy. Further the said Shri R.K. Bhalla, Auditor made similar baseless allegations of demanding money from him by Shri S.S. Nanda, AO (AN) in order to put his name in the list of junior most for local adjustment at Meerut through his mother Smt. Raj Kumari Bhalla vide his representation dated 29-10-83 addressed to Hon'ble Defence Minister.

He is therefore charged with making false and baseless allegations against the superiors and seeking redress of grievances through his mother in contravention of para 318 O.M. Part I.

C.L.

Thus the said Shri R. K. Bhalla, Auditor, A/C No. 8312659 has acted in a manner unbecoming of a Govt. Servant thereby inferring sub rule (iii) of Rule 3(1) of CCS (Conduct) Rules, 1964."

He submitted a reply thereto on 17.1.1984 in which he denied the charge against him. The disciplinary authority by an order dated 8.3.1984 (Annexure A-4), after consideration of his reply, imposed the penalty of stoppage of two increments of pay for two years without cumulative effect for making false and baseless allegations against the superiors and thereby acting in a manner unbecoming of a Government servant, in contravention of sub-rule (iii) of Rule 3(1) of the CCS (Conduct) Rules, 1964 and seeking redress of grievances through his mother in violation of laid down procedure in para 318 of O.M. Part I, while serving in the office of the C.D.A.W.C. Meerut. The applicant preferred an appeal to the C.G.D.A. on 26.4.1984 (Annexure A-5). However, C.D.A. (PD) as the appellate authority disposed of the appeal by order dated 4.4.1985 by a very comprehensive speaking order and by which accepting the appeal partially, the penalty earlier imposed on the applicant was reduced to stoppage of one increment for one year without cumulative effect. The applicant was not satisfied and he preferred another appeal dated 27.6.1985 addressed to Shri V. S. Bhir, FA (DS), Ministry of Defence which was forwarded to CDA WC, Chandigarh but it was returned to the applicant on the ground that in his case the appeal lay with the C.G.D.A. and not FA (DS). On this, the applicant addressed a letter dated 1.10.1985 to the C.D.A., Western Command in which he stated that ^{as} in his case he had appealed to the C.G.D.A. vide his appeal dated 26.4.1984 who had considered the same, the next appeal lay only with FA (DS), and as such his

appeal dated 27.6.1985 addressed to FA (DS) be forwarded through C.G.D.A. with the remarks of the C.D.A. Western Command. However, the same was returned by the C.D.A. Western Command on the ground that the next appeal did not lie to FA (DS) since the penalty in his case was awarded by JCDA and the orders in appeal were ~~were~~ passed by CDA (PD). It was at this stage that the applicant approached the Tribunal by filing O.A. No. 159/86 which was dismissed as withdrawn as the applicant was found not to have exhausted the appellate forum available to him at the CGDA level. The applicant then filed an appeal to the C.G.D.A. on 4.4.1986 which was disposed of by the C.G.D.A. by a speaking order dated 29.10.1986 and in which the penalty of withholding of one increment for a period of one year without cumulative effect as imposed by the first appellate authority was reduced to that of penalty of censure. The applicant has assailed the aforesaid orders of censure in these proceedings.

4. The main contention of the applicant is that the charge levelled against him is factually not correct. The respondents have controverted this contention. The material on record shows that it is not a case where there is no evidence. The Tribunal cannot go into the adequacy or inadequacy of the evidence in such matters. The first appellate authority had passed a very detailed speaking order and the second appellate authority, namely, the C.G.D.A., has also applied his mind and further reduced the penalty to that of only censure. As such the quantum of punishment can also not be really a matter of dispute even though the Tribunal is not to interfere in the punishment imposed by the competent authority, if the disciplinary

proceedings have been held in accordance with the prescribed procedure and there is no case of inferring any mala fide. The other contention raised by the applicant about the competence of various authorities to pass orders has not been substantiated by referring to any rules or instructions on the subject. In sum, the proceedings were initiated for a minor penalty, the matter has been considered at three stages and the initial punishment of withholding of two increments for two years without cumulative effect has finally been reduced to a punishment of censure. We do not find any ground whatsoever for interfering in the final order of punishment passed by the second appellate authority as aforesaid.

5. In the light of the above, the O.A. is dismissed as devoid of merit leaving the parties to bear their own costs.

(P. C. Jain)
Member (A)

(T. S. Oberoi)
Member (J)

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