

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

DATE OF DECISION 4892

DA NO. 2630/91

Shri T.D. Salhotra

.. Applicant

Vs.

Union of India & Others

.. Respondents

For the applicant

.. Shri P.L. Mimroth

For the Respondents

.. Shri P.N. Ramachandani

CORAM:

Hon'ble Justice Mr. Ram Pal Singh, Vice Chairman(J)

Hon'ble Shri I.P. Gupta, Member(A).

1. Whether reporters of local papers may be allowed to see the judgement?

2. To be referred to the Reporter or not?

JUDGEMENT

In this application, the applicant requested for quashing the impugned order dated 27-3-1991 whereby the penalty of with-holding of monthly pension was ordered for a period of 10 years. The applicant has also requested for quashing the Inquiry proceedings and the Inquiry Report.

2. The Inquiry was instituted against the officer by the Ministry of Labour on 13-5-1983 while the applicant was in service. This memorandum of charge sheet dt. 13-5-1983 was later cancelled since the appropriate disciplinary authority in respect of the applicant was the Ministry of Personnel and Training under whose purview his cadre fell. Therefore, by memorandum dated 14-11-1985, the applicant was given a charge sheet similar to the one earlier given by the Ministry of Personnel and Training. The applicant gave his representation and an Inquiry Officer was appointed who submitted his report. A copy of the inquiry report was given to the applicant, who, made representation on it. Meanwhile, the applicant had retired from service on 30-11-1986 and the disciplinary proceeding which was commenced while he was in service was deemed to be proceeding under Rule 9 of the CCS Pension Rules. The President after considering the inquiry report and the applicant's representation thereon and all facts and circumstances of the case

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provisionally came to conclusion that the penalty with-holding pension should be imposed. The UPSC was also consulted and the President after accepting the advice of the UPSC imposed the penalty ^{of} _{of} with-holding 50% of monthly pension for a period of 10 years.

3. The learned counsel for the applicant contended that some of the documents asked for by him were not produced in the course of the enquiry. The learned counsel for respondents said that the documents which were listed along with the charge sheet for proving the case were made available to the applicant. The applicant asked for some more documents which were also made available, but, such of the documents as ^{were} weeded out or destroyed ^{and} could not be produced were not made available to the applicant. As regards the points made by the learned counsel for the applicant that all the witnesses listed with the memorandum of charges were not produced or examined before the Inquiry Officer, the Learned Counsel for the respondents said that some of the witnesses whose presence could not be secured easily were discharged and therefore some of the listed witnesses were not examined. It is not mandatory for the disciplinary authority to ensure that all the witnesses cited are examined for proving the case. It is upto the disciplinary authority to discharge some of the witnesses from the list.

4. The learned counsel for the applicant further contended that in 1983, it was contemplated that common disciplinary proceedings should proceed against 3 officials, but, one of them was later dropped. A question as to whether the disciplinary authority which instituted the proceedings against ^{an} the official before his retirement can drop the proceedings itself after superannuation of the official without submitting his findings to the President, if it, on the basis of the defence of the ^{the} ~~delinquent~~ officer or the report of the enquiry authority, comes to conclusion to drop such proceedings has been considered under CCS Pension Rules. The Instructions of the Government of India contains a clear statement that if the disciplinary authority comes to the conclusion that action under Rule 9 of the Pension Rules against the government employee is not justified and the proceedings should be dropped, it would ^{be} within the competence of the disciplinary authority to drop the proceedings. In any case, if the charges against one of the employees was dropped by the disciplinary

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authority and not continued after his retirement, the applicant's case cannot be said to have been prejudiced thereby.

5. In the conspectus of the aforesaid facts, we find no good reason in this case to interfere with the orders passed by the President imposing the penalty of withholding 50% of monthly pension of the applicant for a period of 10 years. The learned counsel for the applicant pleaded that the applicant was in very bad shape both physically and financially and this heavy cut from his pension was extremely hard on him. Unfortunately, in such matter, we have no right to show compassion and it is for the applicant to make a representation to the respondents to take a compassionate view of his case for such review as they consider appropriate in the order of penalty that they have imposed on him.

6. With the aforesaid observations, the application is dismissed with no order as to costs.

I.P. Gupta
(I.P. GUPTA)
MEMBER(A)

Ram Pal Singh
(RAM PAL SINGH)
VICE CHAIRMAN(J)