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Central Administrative Tribunal
Principal Bench, New Delhi.

OA-1022/2004

New Delhi this the 30th day of November, 2004.

Hon'ble Shri Shanker Raju, Member(J)
Hon'ble Shri Sarweshwar Jha, Member(A)

Shri Umesh Chandra A.O. (Retd.)
From the Office of C.D.A. (Army),
Meerut, R/o 237, Ganga Nagar,
Near Babulal Temple,
Saket, Meerut.

..... Applicant

(through Shri VPS Tyagi, Advocate)

Versus

1. Union of India through
Secretary,
Ministry of Defence,
South Block,
New Delhi.
2. The Secretary-cum-Financial Advisor,
Ministry of Defence(Finance Division),
South Block, New Delhi.
3. The Controller General of Defence
Accounts, West Block-V,
R.K. Puram, New Delhi.
4. Sh. Mayank Sharma,
Dy. C.G.D.A.,
Through C.G.D.A.,
West Block-V,
R.K. Puram, New Delhi.
5. The C.D.A. (Army),
Balvadier Complex,
Meerut Cantt.

..... Respondents

✓ (through Sh. B.S. Jain, Advocate)



Order (Oral)


Hon'ble Shri Shanker Raju, Member(J)

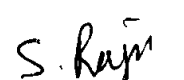
After having heard the arguments advanced on either side, we find a challenge to the disciplinary proceedings, which include Memorandum issued to the applicant seeking his comments upon the enquiry report.

2. Applicant, who superannuated pre-maturely i.e. five months before his actual date of retirement on superannuation on 31.1.2002, was proceeded with a major penalty under Rule 14 of the CCS(CCA) Rules, 1965. Prior to his superannuation, the same is continued as per Rule 9(2) of the CCS (Pension) Rules, 1972.

3. Learned counsel of the applicant contends that Enquiry Officer was biased and the authority, who has appointed the Enquiry Officer, is also incompetent. We will not go into the merits at this stage. However, keeping in view the import and ambit of Rule 9 of the Rules ibid, where a condition precedent for imposition of penalty is that on finding of a grave misconduct or grave negligence, the action to withhold or withdraw pension may be taken under Article 351-A of CSR.

4. In this view of the matter, OA is disposed of with a direction to the respondents that while forwarding the reply of the respondents filed before the enquiry officer, this aspect of the matter will be considered. On being aggrieved, applicant shall be at liberty to assail the order and the grounds taken therein which are left open. No costs.


(Sarweshwar Jha)
Member(A)


(Shanker Raju)
Member(J)

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