

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No. 306/2004

New Delhi this the 10th day of August, 2004

Hon'ble Shri V.K. Majotra, Vice Chairman (A)

Hon'ble Shri Shanker Raju, Member (J)

Shri A.R. Bhayana
Son of Shri Jaswant Rai Bhayana,
R/o WZ-616/T, Rishi Nager,
Delhi-110034.

- Applicant

(By Advocate: Shri N.S. Dalal)

Versus

1. Union of India, Through
Its Secretary (Education)
Shastri Bhawan, New Delhi.

2. The Secretary,
C.T.S.A., ESS ESS PLAZA,
Plot No.1, Community Centre,
Sector-3, Rohini, Delhi-110085.

- Respondents

(By Advocate: Shri Anil Srivastava)

ORDER (Oral)

Hon'ble Shri V.K. Majotra, Vice Chairman (A)

Learned counsel heard.

2. Applicant has challenged order dated 3.12.2003 passed by Respondent No.2 whereby applicant's appeal against order dated 12.5.1998 imposing a punishment of removal from service by the disciplinary authority has been rejected.

3. Learned counsel of the applicant pointed out that earlier on applicant had filed a Writ Petition before the Hon'ble High Court of Delhi. The same was transferred to the Central Administrative Tribunal in view of Tribunal's jurisdiction over the present dispute. T.A. 45/2002 was disposed of vide order dated 29.7.2003 with a direction to the applicant to prefer an appeal against the order of removal from service and to the respondents to dispose of the same on

merits without insisting on limitation and by passing a detailed and speaking order in conformity with Rule 27 of CCS (CCA) Rules, 1965. The appellate authority has passed the impugned order dated 3.12.2003 in applicant's appeal as directed by the Tribunal.

4. Learned counsel of the applicant pointed out that none of the grounds explored by the applicant in his appeal dated 23.8.2003 has been dealt with by the appellate authority in the impugned appellate orders.

5. Learned counsel of respondents stated that appellate authority had dealt with the grounds taken by the applicant in his appeal in the official records, however, the same have not been described in the appellate orders. It may be stated that relevant records have not been produced before us to establish this stand.

6. We have considered the respective contentions of both sides. In our view even if respondents had dealt with the contention raised by the applicant in his representations to the Disciplinary and Appellate Authority in their records unless reasons for rejection of his contentions are communicated to him, he gets no opportunity of defence which is against the principles of natural justice. We have also gone through the applicant's appeal and the impugned appellate orders carefully. We find that in these impugned orders, respondents have not considered the contentions raised on behalf of the applicant in his appeal. Thereby applicant has even been denied the opportunity of making an effective revision against the appellate orders as well. We find that the applicant had resorted to legal process thrice over. Once he filed a Civil Suit in the Court of Additional Senior Civil Judge, Delhi, secondly he filed the Writ Petition before the Hon'ble High Court and thirdly he filed the OA in this Tribunal. We have to observe with utmost seriousness that despite applicant's repeated efforts to seek redressal of his grievance the respondents have adopted an extremely obdurate attitude in not dealing with the matter on

11/2

merit and not even complying with directions of this court for considering applicant's appeal by passing a detailed and speaking order thereon. There is not even a whisper about applicant's contentions raised in the Appellate orders. We reach the inescapable conclusion that such a shallow and sketchy appellate order has to be quashed and set aside with deprecation it deserves.

7. We also draw support from the decision of the Hon'ble Supreme Court in the case of Mahavir Prasad Vs. State of U.P. AIR 1978 SC 1302 ~~and also~~ as per Government of India, MHA DP&AR OM No. 134/1/81-AVD-I dated 13.7.1981 it is mandated upon the disciplinary authority being a quasi-judicial authority to record reasoned order. The necessity to record reasons is greater if the order is subject to appeal. We have also gone through the order dated 12.5.1998 of the disciplinary authority. The applicant had submitted his representation dated 6.2.1997 against the report of the enquiry officer dated 13.1.97. This order is also without any details and is non-speaking. The observations relating to the appellate order also apply mutatis mutandis to order of the disciplinary authority.

8. As a result in view of the facts and circumstances of the case as also the reasons stated above, the impugned orders dated 12.5.1998 and 3.12.2003 imposing punishment of removal from service upon applicant are quashed and set aside. Applicant shall have all consequential benefits including immediate reinstatement into service but without back wages.

9. OA is disposed of in the above terms. No costs.

S. Raju
(Shanker Raju)
Member (J)

V.K. Majotra
(V.K. Majotra)
Vice Chairman (A)

10.8.04

cc.