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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 1798/1993

Monday, this the 20th January, 1997.

HON'BLE SHRI JUSTICE B. C. SAKSENA, ACTING CHAIRMAN
HON'BLE SHRI R. K. AHOOJA, MEMBER (A)

Shri Tej Singh, Ex. Mess Boy,
S/O Shri Ram Chander Singh,
H. No.16, New Deliware,
Mount Abu (Rajasthan).

... Applicant

(By Shri D. R. Gupta, Advocate)

-Versus-

1. The Director,
Directorate of Coordination
(Police Wireless),
Ministry of Home Affairs,
Block No.9, CGO Complex,
Lodhi Road,
New Delhi-110003.

2. The Joint Director,
Director of Coordination
(Police Wireless),
Ministry of Home Affairs,
Block No.9, CGO Complex,
Lodhi Road,
New Delhi-110003.

... Respondents

(None for Respondents)

O R D E R (ORAL)

Shri Justice B. C. Saksena -

We have heard the learned counsel for applicant. Notice which was issued to respondents was served on them on 8.9.1993. No one has put in appearance on behalf of respondents. Since notice was served on respondents, we proceed to hear the matter.

2. On 2.9.1993, a Division Bench of this Tribunal directed "to issue notice to respondents to show cause within a period of two weeks as to why the appellate order may not be quashed." Thus, the only question to be gone into is the validity of the appellate order. The same has

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been filed as Annexure A-I. The order reads as under :-

"With reference to your appeal dated 15.7.92, you are hereby informed that the various points mentioned in your appeal, has been considered by the Appellate Authority and he has found that there is no merit in the appeal submitted by you and the Appellate Authority has ordered that the penalty already imposed upon the appellant, namely Shri Tej Singh, Ex-Mess Boy, being appropriate and valid, is to be sustained."

Learned counsel for applicant urged that this order does not conform to the requirements of Rule 27 of the Central Civil Services (Control, Classification and Appeal) Rules, 1965. Sub-rule (2) of Rule 27 enjoins the appellate authority to -

- (a) whether the procedure laid down in these rules has been complied with and if not, whether such non-compliance has resulted in the violation of any provisions of the Constitution of India or in the failure of justice;
- (b) whether the findings of the disciplinary authority are warranted by the evidence on the record; and
- (c) whether the penalty or the enhanced penalty imposed is adequate, inadequate or severe;"

3. Learned counsel for applicant submitted that one of the pleas raised in the Original Application is that applicant was appointed by or under the orders of the Director, as would be evident from Annexure A-6. The said office order dated 15.6.1976 shows the names of applicant, among others, as having been appointed in the Directorate of Coordination (Police Wireless). The order was issued under the signatures of Shri S. N. Mathur, Administrative Officer, but it is indicated that he has issued the order 'for Director'. The learned counsel, therefore, submits that the appointing authority of applicant is the Director

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and the order of removal from service has been passed by an authority subordinate to the appointing authority. We are not going into this question and we are only remitting the case to the appellate authority. The appellate authority, it is expected, shall also go into this question and take a decision thereon while deciding the appeal afresh.

4. With the observations made hereinabove, the application is partly allowed. The order passed by the appellate authority dated 19.4.1993 (Annexure A-I) is quashed and the appellate authority is directed to take a decision afresh in the light of the observations made hereinabove. The appellate authority shall decide the appeal within a period of three months from the date a copy of this order is furnished to him.

Dated, 20th January, 1996.

R. K. Ahooja
(R. K. Ahooja)
Member (A)

/as/

B. C. Saksena
(B. C. Saksena)
Acting Chairman