

(15)

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH
NEW DELHI.

O.A.No.797/93

New Delhi: dated this the 30th day of April, 1997

HON'BLE MR.S.R.ADIGE MEMBER(A).

HON'BLE DR.A.VEDAVALLI MEMBER(J).

Shri S.P.Agarwal,
S/o (Late) Shri B.D.Agarwal,
Formerly Assistant in the
Ministry of Home Affairs,
New Delhi Applicant.

(By Advocate: Shri T.C.Agarwal).

Versus

Union of India through
The Secretary in the Govt. of India,
Ministry of Home Affairs,
North Block,
New Delhi Respondents.

(By Advocate: Shri N.S.Mehta).

JUDGMENT

BY HON'BLE MR.S.R.ADIGE MEMBER(A).

Applicant assails the order dated 7.4.88 (Annexure-A7) dismissing him from service and the revision order dated 5.1.93 (Annexure-A13) rejecting his representation, and prays for full pay from the date of his suspension i.e. 8.7.86 till the date of his superannuation on 31.8.90 with release of all retiral benefits together with interest @ 18% p.a. thereon.

2. Applicant who joined service in 1954 and belonged to the CSS cadre of MHA worked as Assistant in SCC from 1981-84. In July, 1985 his house was raided by CBI on a complaint that he was involved in a fake recruitment racket and 4 documents pertaining to the official file of SCC, New Delhi were seized

A

16

from his premises. A criminal case u/s 381 IPC was registered against him by CBI and meanwhile he was suspended on 8.7.82. He was tried by the M.M. New Delhi and was convicted u/s 411 IPC by judgment dated 1.5.87 for being in possession of stolen documents, knowing or having reason to believe the same to be stolen property. Passing sentence on 1.5.87, the M.M. was not inclined to grant the benefit of Section 3/4 Probation of Offenders Act to the accused, but keeping in view the fact that he had to remain in custody from 29.8.96 to 2.9.86 he was sentenced to imprisonment for the period already undergone and to pay a fine of Rs.3000/- in default of which he would have to undergo R.I. for 2 months.

3. In appeal the Addl. Sessions Judge, Delhi by his judgment dated 25.7.92 did not interfere with the findings but reduced the sentence that applicant be released on probation for one year under the Probation of Offenders Act on his furnishing personal bond and sureties.

4. Meanwhile a show cause notice was issued to applicant on 15.7.87 proposing to impose the penalty of dismissal from service under Rule 19 CCS (CCA) Rules on his conviction by a Court of Law and consequent imprisonment from 29.8.96 to 2.9.86 and a fine of Rs.3000/- in the criminal case under section 381, 411 IPC.

5. Applicant filed his show cause reply, inter alia taking the ground that his appeal against the M.M.'s orders was still pending and till the same

2

17

was decided, no action could be taken against him. UPSC was consulted in the matter, who in their advice dated 15.3.88 (Annexure-A6) opined that in the background of GOI's instruction No.2 under Rule 19 CCS(CCA) Rules this ground was not valid. They recommended that applicant be dismissed from service, having regard to the very serious nature of the offence committed by applicant which involved moral turpitude.

6. Accordingly the impugned Presidential order dated 7.4.88 (Annexure-A7) issued, dismissing applicant from service under Rule 19(i) CCS(CCA) Rules. Later on 28.6.88 (Annexure-A8) a corrigendum issued deleting that portion of para 3 of the impugned order dated 7.4.88 which stated that applicant had been given opportunity of personal hearing.

7. Against the dismissal order, applicant filed appeals on 16.5.88, 2.6.88 and nil, in reply to which he was informed vide O.M. dated 6.10.88 (Annexure-A9) that under Rule 22 CCS(CCA) Rules, no appeal lies against orders made by the President, but a revision application could however be submitted by him under Rule 29 CCS(CCA) Rules subject to the conditions specified therein.

8. Accordingly applicant submitted a revision petition on 21.11.88 (Annexure-A10), which however was rejected by orders dated 13.3.89 (Annexure-A11).

9. Meanwhile applicant attained the age of superannuation on 31.3.90.

10. After the appellate order was passed by

2

the Addl. Sessions Judge, Delhi on 25.7.92, applicant filed another petition on 1.10.92 in which various grounds were taken (Annexure-A12), but the same was rejected by order dated 5.1.93 (Annexure-A13).

11. We have heard applicant's counsel Shri T.C. Agarwal and respondents' counsel Shri N.S.Mehta. We have also perused the materials on record and given the matter our careful consideration.

12. Shri Agarwal has raised a number of contentions, but we shall for the present focus on only one, namely the orders dated 5.1.93 rejecting applicant's revision petitions. This order and indeed the earlier orders dated 13.3.89 is brief and bald and does not discuss the grounds taken in the revision petition. In C.C. Dutta Vs. UOI & Ors ATR 1981 (1) CAT 220 Calcutta Bench has held that a revision to the President against a punishment order has to be dealt with in the same manner as if it were an appeal under the rules. Nothing has been shown to us to indicate that this ruling has not become final. It is well settled that an appellate order is a quasi judicial order in which the appellate authority must focus attention on the grounds taken in the appeal and come to a finding on each of the grounds raised, giving reasons for the same. In this connection the CAT Bangalore Bench ruling in N. Ramachandra Vs. UOI & Ors 1995(31) ATC 593 is very relevant.

13. In the present case, we note that the orders dated 13.3.89 and 5.1.93 do not discuss the grounds taken by the applicant. While the order dated 13.3.89 states that the applicant has not raised any new grounds

2

19

in his representation, the order dated 5.1.93 does not state even that, and merely informs applicant that it has not been found possible to alter the decision already taken regarding imposition of penalty of dismissal from service imposed on him.

14. While it was no doubt open to the revisionary authority to come to this conclusion, the order being quasi judicial in character, should have discussed the grounds taken by the applicant and the reasons for coming to the above conclusion, which has not been done in the instant case.

15. In the result, without interfering ^{with} ~~in~~ the punishment of dismissal from service imposed on applicant in any way at this stage, the impugned order dated 5.1.93 is quashed and set aside and the case is remitted back to the revision authority to give the applicant a reasonable opportunity of being heard in person, and thereafter pass a detailed speaking and reasoned order in accordance with law as expeditiously as possible and preferably within 4 months from the date of receipt of a copy of this judgment. No costs.

A Veda Valli
(DR. A. VEDAVALLI)
MEMBER(J).

S. R. Adige
(S. R. ADIGE)
MEMBER(A).

/ug/