

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD.

Original Application No.1245 of 1996.

Allahabad this the 29th day of May 2003.

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

Hon'ble Mr. S.K. Agrawal, A.M.

Riyasat Ullah Khan
Aged about 59 years,
S/o Late Sri Shafayat Ullah Khan,
R/o Mohalla Mahmand Jangla,
Shahjahanpur U.P.

.....Applicant.

(By Advocate : Sri R Verma)

Versus.

1. Union of India
through the Secretary
Ministry of Defence,
New Delhi.
2. The Hon'ble President of India,
President House,
New Delhi.
3. The Engineer-in-chief
Army Head Quarter, D.H.Q.
New Delhi-110011.
4. The Chief Engineer,
Engineers Branch,
Central Command
Lucknow-226002.

.....Respondents.

(By Advocate : Km S Srivastava)

O R D E R

(HON'BLE MR. JUSTICE R.R.K. TRIVEDI, V.C.)

By this O.A., filed under section 19 of Administrative Tribunals Act 1985, the applicant has challenged the order of punishment dated 17.04.1995 by which respondent No.4 awarded punishment of compulsory retirement against the applicant on the conclusion of Disciplinary Proceeding. Against this order appeal was



filed by the applicant which was decided by the Appellate Authority on 31.10.1997. Appeal was dismissed.

2. On noticing the fact that appeal was also dismissed, the order of this Tribunal dated 22.08.2000, disposing of the O.A. directing the Appellate Authority to decide the appeal, was recalled on 06.08.2001.

3. We have heard learned counsel for the parties and perused records.

4. Learned counsel for the applicant has challenged the authority of respondent No.4 to pass the order of punishment of Compulsory retirement against the applicant on the ground that Engineer-in-Chief was the appointing authority in respect of the applicant who was appointed in 1963 and respondent No.4 can not pass the order. For this purpose he has placed reliance on the order dated 16.08.1979 (Annexure 11) and order dated 31.08.1979 (Annexure 12). He has also referred to the schedule appended to the CCA (CCS) Rules 1965. He has also referred two orders passed in similar matters in which the order of punishment were set aside on the ground that the order passed against the E/M Grade 1 by the Chief Engineer, but the ^{power} can not be further delegated to pass such order.


5. Learned counsel for the respondents, on the other hand, submitted that Engineer-in-Chief though was original appointing authority in respect of Group C and D employees but the ^{at we} power delegated to the Lower Authority by the Headquarter order dated 07.06.1974 and Chief

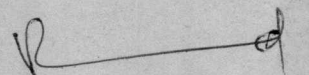
Engineer was delegated the power but he could not pass the order of superior authority. However, copy of the order dated 07.06.1974 has not been brought on record.

6. Considering the facts and circumstances, in our opinion, this matters should have been decided by the Appellate Authority, as this question has been raised by the applicant. He was questioning the authority of Chief Engineer during the pendency of the proceeding also.

7. For the reasons stated above, the order dated 31.10.1997 passed by Appellate Authority is ~~quashed~~ ^{quashed}. The appellate authority shall decide the appeal afresh after hearing the applicant in accordance with law. Appellate Authority shall ^{also} decide the question as to ^{whether} ~~why~~ the Chief Engineer (Central Command) had power to pass the order of punishment of compulsory retirement against the applicant. As the matter is old, the appeal shall be decided within 3 months from the date, a copy of the order is filed.

No order as to costs.


Member-A.


Vice-Chairman.

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