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CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 24TH DAY OF SEPTEMBER, 2003

Original Application No. 1185 of 1997

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI, V.C.

HON.MR.D.R.TIWARI, MEMBER(A)

H.K.Pandey, Store Keeper cum Account
Clerk, Son of Shri R.R.Pandey
Resident of village Bhidewra, Post Pali,
district Bhadohi.

.. Applicant

(By Adv: Shri N.L.Srivastava)

Versus

1. Union of India through
Secretary, Ministry of Textile
Govt. of India Udyog Bhawan,
New Delhi.
2. Development Commissioner(Handicraft)
West Block No.7, R.K.Puram
New Delhi.
3. Assistant Director(A & C) Carpet
Weaving Cum Service Centre,
district Bhadohi.

.. Respondents

(By Adv: Shri Ashok Mohiley)

O R D E R(Oral)

JUSTICE R.R.K.TRIVEDI, V.C.

By this OA u/s 19 of A.T.Act 1985 applicant has
challenged the order of punishment dated 26/27.8.1991
passed by the Disciplinary authority by which applicant has
been awarded punishment of reduction in pay by one stage ~~in~~

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from Rs 1150 to Rs 1130 in the time scale of pay of Rs 950-1500 for a period of two years with cumulative effect. The order has been maintained in appeal which was dismissed by order dated 19.5.1997(Annexure A 8). The counsel for applicant has submitted that the charge against the applicant was not proved and the Inquiry officer found that it will not be proper to hold ~~him~~ guilty ~~the respondent~~ for the mishappening. He recommended for further inquiry. Charge no.2 was not found proved. It is submitted that even the disciplinary authority found that the charge of embezzlement has not been found proved conclusively against the applicant even then he was awarded punishment to the applicant on the ground that there was a loss of 34 carpets. Learned counsel has submitted that Appellate Authority has also not considered this aspect of the case while dismissing the appeal. It is submitted that the applicant has been punished on the basis of the charges which ~~has~~ not been found proved.

Shri Ashok Mohiley learned counsel for the respondents, on the other hand, submitted that the Appellate Authority has considered the case in detail and confirmed the order of the Disciplinary Authority. The punishment awarded is ~~commensurate~~ ^{in compensation} to the loss suffered by the government and no ground has been made out for interference by this Tribunal.

We have carefully considered the submissions of the counsel for parties. In our opinion, in view of the findings recorded by the Inquiry officer and the Disciplinary Authority that charges have not been found proved the punishment awarded cannot be ~~suspended~~ ^{sustained}. In this case Disciplinary Authority even did not serve any



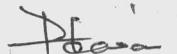
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memorandum of disagreement on the applicant before passing the order of punishment. On the other hand, Disciplinary Authority agreed with the findings that charge of embezzlement has not been proved. In these circumstances, the punishment awarded ~~cannot be~~ ^{on 18th} liable to be set aside.

For the reasons stated above, this OA is allowed. The order dated 26/27.8.1991(AnnexureA 6) and order dated 19.5.1997(AnnexureA8) are quashed. The applicant shall be entitled for refund of the amount which has been deducted from his salary on the basis of the impugned order. This order shall be given effect within three months from the date a copy of this order is filed. There will be no order as to costs.


MEMBER (A)


VICE CHAIRMAN

Dated: 24th September, 2003

Uv/