

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 23 of 2001

Allahabad this the 31st day of January 2001

Hon'ble Mr.C.S. Chadha, Member (A)

S.P. Matta Son of Late K.C. Matta, R/o 21/55,
E.C. Road, Dehradun, presently working as
Assistant Accounts Officer, OPTO Electronic
Factory, Dehradun.

Applicant

By Advocate Shri S.K. Om

Versus

1. Union of India through Secretary, Ministry of Defence, Government of India, R.K. Puram, New Delhi.
2. The Financial Advisor, Defence Services, Ministry of Defence, Govt. of India, R.K. Puram, New Delhi.
3. The Controller General, Defence Accounts, Ministry of Defence, R.K. Puram, New Delhi.
4. Controller of Defence Account, Air Force, Dehradun.
5. The Deputy Controller of Defence Accounts, Air Force, Rajpur Road, Dehradun.

Respondents

By Advocate Shri G.R. Gupta

O_R_D_E_R

Hon'ble Mr.C.S. Chadha, Member (A)

The applicant is working as an Accounts Officer in the O.P.T.O. Electronic Factory at Dehradun. While working as Assistant Accounts Officer at C.D.A.

B.C. Chadha

Air Force, he was charge-sheeted for certain irregularities which he claims he did not commit. The Controller of Defence Accounts- respondent no.4, issued a charge sheet to the applicant under Rule 14 of C.C.S.(C.C.A.)Rules, 1965 and accused of facilitating the fraudulent payment of public money to the tune of Rs16,434. An inquiry was held into the matter and the Inquiry Officer submitted his report on 25.01.1999 whereby he completely exonerated the applicant from the charges levelled against him. However, the respondent no.4, C.D.A., issued a letter to him on 10.02.1999 disagreeing with the findings of the Inquiry Officer and issuing him a show-cause notice as to why the action should not be taken against him. After the receipt of reply from the applicant, the C.G.D.A. issued a final order vide annexure-13 on 18.02.00 imposing a punishment on the applicant by reducing his pay by two stages with cumulative effect upto the date of retirement. The applicant filed an appeal against this order before the Financial Advisor, who also rejected the appeal, and hence this application.

2. The main contention of the applicant is that in accordance with the Defence Accounts Department Official Manual Part I, 1979 Edition Schedule B, copy of which is at annexure-11, the C.G.D.A. and not the Controller will exercise the powers of imposition of major penalties in respect of Group 'C' staff appointed prior to 25.3.67. He, therefore, claimed that in his case the Controller of Defence Accounts issued a letter ~~off~~ differing with the findings of the Inquiry Officer, whereas it should have been

done by C.G.D.A., who was his disciplinary authority since he was appointed to the Group 'C' post in 1964. He, therefore, claims that the show-cause notice was defective and erroneous and, therefore, the order passed by the C.G.D.A. was illegal.

3. In their counter-reply the respondents have not mentioned any detailed reason for this error. However, it appears from a close scrutiny of the record that the error was committed in a bonafide manner because while issuing the show-cause notice differing with the findings of the Inquiry Officer, it was mentioned therein that the Controller of Defence Accounts was doing so as the disciplinary authority. Infact it is quite obvious that the mistake was discovered well in time and that is why the matter was sent for final orders to the C.G.D.A. Infact the C.G.D.A. has passed a very detailed speaking order giving reasons why he found the applicant guilty of charges. Counsel for the applicant had argued in detail stressing the fact that the difference with the Inquiry Officer's findings should have been arrived at by the disciplinary authority and no one below him, and further the disciplinary authority should have applied his own mind rather than depend on somebody else. Infact he argued that the disciplinary authority, C.G.D.A., had not applied his mind and merely approved what the Controller of Defence

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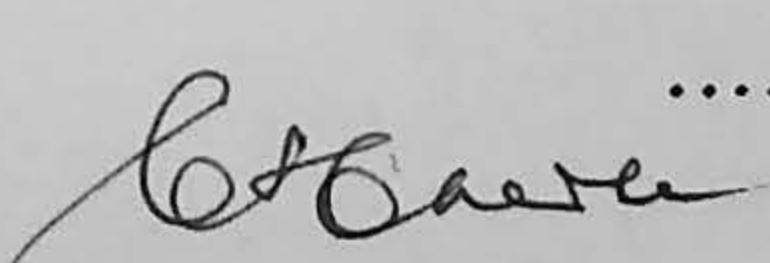
Accounts had sent to him. A perusal of annexure-13, i.e. the order dated 18.02.2000 clearly shows that the order of C.G.D.A. is a well reasoned logical order in which he has applied his mind. It is quite likely that during the course of the proceedings, an attention might have been drawn to the fact that the C.G.D.A. and not the Controller was the disciplinary authority. That is why even in the final order dated 18.02.2000, the C.G.D.A. ~~writes~~ "the charge-sheet" officer submitted his representation dated 25.2.1999 against the statement of disagreement of the disciplinary authority." This clearly shows that earlier the Controller was considered as a disciplinary authority. The entire proceedings would have been certainly vitiated and rendered illegal had the final order been passed by the C.G.D.A. merely agreeing with the Controller, whereas in this case the C.G.D.A. has made up his mind independently giving detailed reasons and, therefore, the procedural defect of disagreement issued by the Controller was set right well before it was too late. Learned counsel for the applicant did not go into the validity of the charges, but merely challenged the process. In view of the above arguments, the process was corrected well in time and the C.G.D.A. applied his mind to the reasons for differing with the findings of the Inquiry Officer and passed a well worded logical and speaking order.

B. Chatterjee

4. In the above circumstances, I find no reason to interfere with the order issued against the applicant. Even if it was considered, for arguments sake, that the procedure adopted was incorrect, the Tribunal would at most remand the case to the C.G.D.A. for beginning with the proceedings afresh as if he had directly received the Inquiry Officer reports and it was he who had to ~~diff~~er/agree with the report. I am sure that even if the case is remanded, the conclusion would again be the same and, therefore, there is no reason for interfering with the decision already taken.

5. Learned counsel for the applicant also argued that since the applicant had retired during the pendency of the application before the Tribunal, the matter should not be remanded and should be straight away closed. He cited a rulling of Hon'ble Supreme Court (A.I.R. 1998 Supreme Court 2713) according to which the cases such as those should not be re-opened after a lapse of long time. I am not in agreement with the conclusion derived from the rulling cited by the learned counsel because in that case one of the respondents had died and the other was being considered for punishment several years after retirement which is not the case in the present application. Therefore, ends of justice would be made only by disallowing this application.

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6. The O.A. is accordingly dismissed.
There shall be no order as to costs.

Stevens
Member (A)

/M.M./