

A3
1

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

Registration No. 466 of 1986(OA)

Sati Bahadur Singh applicant.

Versus

General Manager, Ordnance Factory Kanpur
and others Respondents.Hon'ble D.S. Misra, A.M.
Hon'ble G.S. Sharma, J.M.

(Delivered by Hon'ble D.S. Misra)

In this application under Section 19 of the A.T. Act XIII of 1985, the applicant has sought the quashing of the order dated 6.7.84 passed by the General Manager, Ordnance Factory Kanpur imposing punishment of stopping increments for 2 years with cumulative effect and the order dated 12.8.84 passed by the Chairman Ordnance Factory Board rejecting the appeal of the applicant.

2. The admitted facts of the case are that the applicant, who is an employee of Ordnance Factory Kanpur was served with a memorandum dated 24.2.1984 under Rule 16 of the CCS(CCA) Rules 1965 with the imputation of charge that the applicant lent money to Sri Yogesh Chandra, misbehaved with him using abusive language and attempted to snatching money from him forcibly and thereby committing an act of unbecoming of government servant in violation of Conduct Rules. The charge was based on the complaint dated 16.12.1983 of Sri Yogesh Chandra. The applicant denied the charge in the reply filed by him and the disciplinary authority passed the impugned order under CCS(CCA) Rules, 1965.

ke

A3
2

(5)

-2-

3. We have heard the arguments of the learned counsel for the parties. It is contended on behalf of the applicant that a copy of the complaint dated 16.12.1983 of Sri Yogesh Chandra was not supplied to the applicant and the order was passed without holding any inquiry even when the applicant had denied the charge and that there is no evidence against the applicant to justify the charge and the imposition of penalty. The respondents have contended that a copy of the complaint was provided but they have failed to substantiate this contention by any documentary evidence. Regarding the second contention of the applicant that no inquiry was held, the respondents have stated that under Rule 16 of the CCS(CCA) Rules it is not obligatory/mandatory to hold an inquiry and the satisfaction of the disciplinary authority is sufficient to impose the penalty. We have examined the contention of the parties and we are of the opinion that the contentions of the respondents suffer from various short-comings.

4. Learned counsel for the applicant cited several case law in support of his contention that the impugned order passed by the disciplinary authority was based on no evidence. We shall first deal with Rule 16 of the CCS(CCA) Rules, 1965 which reads as under;

be

A3
3

(6)

-3-

Rule 16:(1)-Subject to the provisions of sub rule(3) of Rule 15, no order imposing on a Government servant any of the penalties specified in clause(i) to (iv) of Rule 11 shall be made except after-

- (a)
- (b)
- (c)
- (d) recording a finding on each imputation of misconduct or misbehaviour.

Under Rule 1(d) of Rule 16 of the CCS(CCA) Rules, it is necessary for the disciplinary authority to record a finding on each imputation of misconduct, or misbehaviour. The impugned order dated 6.7.84 (annexure 1) merely states the charges contained in the memo of the charge served on the applicant and does not disclose any finding on any of the two charges levelled against him. It merely says that on a careful consideration of the written statement of defence submitted by the applicant, he finds Sri Sati Bahadur Singh guilty of the charge levelled against him. The disciplinary authority goes on to impose the penalty of stoppage of increment of two years. It is well settled law that a disciplinary inquiry has to be a quasi judicial inquiry held according to the principles of natural justice and the disciplinary authority has a duty to act judicially. In this case the disciplinary authority has not given any reason why the denial made by the applicant has not been considered credit worthy. Similarly the appellate order is a very cryptic order and merely reproduces the wordings of sub rule(2) of Rule 27 of the CCS(CCA) Rules, 1965. In the case of R.P. Batt Vs. Union of India and others ATR 1986, SC 149

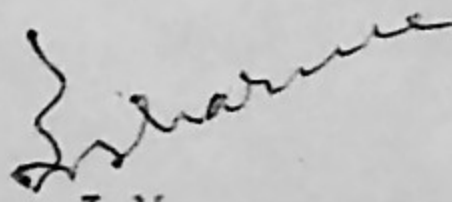
A3
4

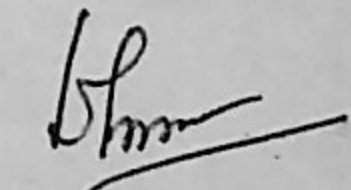
(7)

-4-

the Hon'ble Supreme Court has observed that the word 'consider' in Rule 27(2) of the CCs(CCA) Rules implies due application of mind. The appellate authority has also ~~not~~ cared to examine whether the findings of the disciplinary authority are warranted by the evidence on record. We have considered the matter and we are of the opinion that disciplinary order has been passed on no evidence and the appellate ~~order~~^{authority} has also not considered this fact.

For the reasons mentioned above, we quash the punishment order dated 6.7.84, and the appellate order dated 12.8.1984. It is however open to the respondents to take action against the applicant ~~afresh~~^{afresh} in accordance with law. Parties shall bear their own costs.


J.M.


A.M.

JS/17 .8.88