

(P.W.K. 6)

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

REGISTRATION O.A.No.687 of 1986

Laxmi Prasad ..... Applicant

Versus

Union of India & Others..... Respondents

Hon. Mr. Justice K. Nath, V.C.

Hon. Mr. A.B. Gorthi, Member(A)

(By Hon. Mr. Justice K. Nath, V.C.)

This application under Section 19 of the Administrative Tribunals Act, 1985 is for quashing an order dated 24.4.86, Annexure-1 by which the applicant was awarded a punishment of withholding of his promotion for a period of one year. There is also a prayer to direct the applicant to be promoted in accordance with the seniority list. The applicant having been suspended during the enquiry, relief is also sought to treat the period of suspension to be on duty for all purposes.

2. The applicant was working as a U.O.C. when he was served with a chargesheet dated 30.8.82, Annexure-3 on allegations of dereliction of duty and misbehaviour. He was suspended pending enquiry by order dated 31.3.83, Annexure-1A. He submitted his reply to the chargesheet. Enquiry was held by the Inquiry Officer who found the charges to be proved. The enquiry report was considered by the disciplinary authority who found that charge No.5 was not proved whereas the remaining charges were proved and ultimately aggrieved with the findings of the Inquiry Officer on the charges which were found proved, imposed the penalty in question by order dated 24.4.1986, Annexure-1.

3. The applicant preferred an appeal dated 14.5.86, Annexure-2 which was still pending when he filed this application.

4. The applicant's case is that in course of time he had been promoted as Head Clerk but was reverted to the post of the U.D.C. and his representation against it was rejected on the ground that the post was temporary. On account of this reversion, he had suffered great mental torture and on account of "very critical and pinching situation", he was compelled not to oppose the charges levelled against him during the enquiry. It was said that he was not given a copy of the enquiry report before the punishment order was imposed. The suspension order was alleged to be illegal.

5. The case in the Counter Affidavit is that the applicant himself had admitted three heads of charges and although he had not admitted the other heads of charges he was found guilty of lack of devotion to duty and of committing grave misconduct.

The statement in para 6(16) of the Original Application that a copy of the enquiry report had not been furnished to the applicant was not specifically denied in Counter Affidavit (see para 21). In the matter of promotion as Head Clerk, it was stated that the applicant had been posted as U.D.C. Incharge only in adhoc capacity and the post of the U.D.C. Incharge was redesignated as Head Clerk so that the applicant held the post of Head Clerk only in an adhoc capacity and that there was no illegality in his reversion as U.D.C.

(b) (8)

6. It was further said that the applicant's appeal against the punishment order was still pending and this application was premature.

7. We have heard the learned counsel for the parties and have gone through the record. So far as the applicant's grievance in respect of suspension order dated 31.3.83, Annexure-1A is concerned, that order and the consequences of its revocation was also subject matter of the applicant's another Original Application No.279/87 under Section 19 of the Administrative Tribunals Act, 1985 and orders have been passed therein; no further orders are required to be passed in the present case.

8. So far as the proof of the charges are concerned, it is the own admission of the applicant that out of the five charges contained in Annexure-3 he had himself admitted three to be correct. He has mentioned in the memo of appeal, Annexure-2 dated 14.5.86 that charge No.5 was not proved although charge No.4 was proved. The stand taken is that the statement of the Inquiry Officer and of the disciplinary authority that all the charges were proved was incorrect and therefore the entire punishment order is vitiated. It is difficult to accept this contention because the various heads of charges have been separately and distinctly stated in the memo of charges and the applicant having accepted charges Nos 1A, 3 & 4 the finding both of the Inquiry Officer as well as of the disciplinary authority in respect of those charges are not open to question.

(b)

9. There is some worth in the contention of the learned counsel for the applicant that the order of the disciplinary authority, Annexure-1 is not a speaking order. All that is stated in the order is that the disciplinary authority had carefully gone through the findings of guilt submitted by the Inquiry Officer and all the connected papers and he found that the charges 1 to 4 were proved. The enquiry report has not been produced before us. The respondents have only filed the copy of a preliminary departmental enquiry report dated 5.4.83, Annexure-2 in which the only material fact stated is that the applicant had admitted Article 1A of the charge concerning serious dereliction of duty while posted in Group (xiv), Article 3 and Article 4 of the charges but had not admitted Articles 1(B) and (C) or Articles 3 and 5. The document contains the direction that the future date in the proceedings would be intimated to the parties in course of time. We do not have before us therefore even the reasons of finding of guilt recorded by the Inquiry Officer. The findings of disciplinary authority therefore suffer from the vice of non speaking order in respect of the charges which were not admitted by the applicant. However, in respect of the charges which were admitted by the applicant himself, it was not necessary for either the Inquiry Officer or for the disciplinary authority to record any reasons; facts admitted need no proof. Since the different heads of charges are quite distinct they are separable, it cannot be said that the punishment order is vitiated. The case of State of Orissa and Others Versus Vidya Bhusan Mahapatra 1963 SC 779 may be seen in this connection.

10. We may mention that a failure to furnish the copy of an enquiry report before the disciplinary authority passes orders on the enquiry report has been recognised to be a violation of the principles of natural justice. In that sense the punishment order could be open to question. But here also the failure to furnish the copy will not stand in the way of the finding of guilt on charges which were admitted by the applicant himself.

11. These are all the points on the merits of this case which therefore should fail.

12. The application is dismissed; parties shall bear their costs.

*Amrit Singh*  
Member (A)

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12.4.91  
Vice Chairman

Dated the 12<sup>th</sup> April, 1991.

RKM