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THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD

D.A. No. 1457/87

R.S. Pandey

...

Applicants

Vs.

Union of India & others ...

Respondents

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. K. Obayya, A.M.

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicant was appointed as a permanent labour attendant on 4.12.72 under Dy. Chief Controller in the Government Opium & Alkaloid Works at Ghazipur. While he was working in the research section, he was apprehended at the security post. On 24.6.76, when he was carrying 28.5gms Opium and 25.5gms thebaine powder wrapped in old newspaper and in polythene paper was recovered in his possession and therefore he was sent to Police and placed under suspension on 25.6.76. A Charge sheet was also served to him on 2.7.86. The applicant denied the charges and a question for open inquiry was conducted. Vide order No. 19.6.80 the applicant was acquitted by the Criminal Court as charges against him was not proved in view of the fact that evidence was not rendered by the prosecution to prove the charges. The enquiry officer having completed the inquiry submitted his report to the disciplinary authority on 15.3.80. The disciplinary authority did not agree with the findings of the enquiry officer and held the applicant guilty, and dismissed from service vide order dated 30.9.90. The applicant filed an appeal against the same. The appellate authority vide its

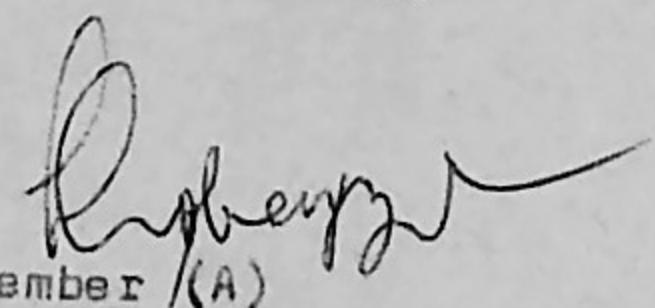
order dated 1.5.81 modified the order passed by the disciplinary authority and awarded the punishment of reducing the applicant's pay for four stages, i.e. from present pay of Rs. 255/- to Rs. 235/- in the time scale of pay to Rs. 225-5-260-EB-6-308 for a period of 3 years with effect from 1.5.78. It appears that respondents were not satisfied with the order and the President in exercise of powers of Rule 29(a) of C.C.A. issued show cause notice. The applicant was given an opportunity to submit reply to the same. The applicant replied thereafter and the matter was also referred to the U.P.S.C. The President also opined against taking into consideration the same passed an order dismissing the same vide order dated 16.1.83.

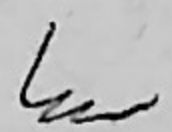
The applicant filed a writ petition which has been transferred to this Tribunal. The Learned Counsel for the applicant contended that the powers under Rule 29(1)(i) of C.C.S. Rules can be exercised only after an inquiry is held. Proviso to Rule 29(1)(i), it provides for holding an inquiry, if the same has not already been held under Rule 14. In this case an inquiry has already been held, as such there was no question of holding any enquiry and this plea fails. As a matter of fact, the President issued show cause notice under Rule 29(1)(i) of the C.C.A. Rules which has also been mentioned by the applicant. In the notices so issued under Rule the word 'review' finds place, not the 'revision'. The word 'revision' was substituted by the word 'review' only by Government of India, D.P. & A.R. Notification No. 11012/2/1/80 dated 6.9.81 in Rule 29(2). The proceedings having started before the said amendment was made, the same were in accordance with law. It was contended by the learned counsel that this review was permissible only

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if appeal was not filed and in this connection Rule 29 (1) and its sub-rules and Rule 29(2) are to be read together and not in isolation. Rule 29(2) makes it clear that power of review are to be exercised only after expiry of *period of limitation* for appeal or after its disposal. In this case, appeal was filed and powers of review could have been considered thereafter. As such this plea is also without any substance.

The other plea raised in this case that the applicant was acquitted by the Criminal Court as such the applicant could not have been punished. Merely because the criminal court acquits a person if in the departmental inquiry he is held guilty and he can not get benefit of acquittal in every case and the departmental proceedings against him can not be dropped automatically. though in *Sucha* cases can be stayed during pendency of criminal proceedings. The review authority had a jurisdiction to review the order and the said order of review is not without jurisdiction. As such this plea also does not hold good. Accordingly, this application has got no merits and is dismissed. No order as to be costs.


Member (A)


Vice Chairman

Allahabad
6.7.92

(smc)