

(A3)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

b
O.A. No. 475/87

R.S. Pratihar

(6)
Applicant

versus

Union of India & others

Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. K. Obayya, Adm. Member.

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

The applicant has approached the Tribunal against the punishment order dated 7.11.86 passed by the Chief Commissioner of Income Tax, as a result of which the disciplinary proceedings were initiated and the applicant was awarded punishment of reduction to a lower post of Head Clerk for a period of three years. The petitioner prayed that the order of Chief Commissioner of Income Tax may be cancelled and the petitioner may be restored to the higher post of Inspector.

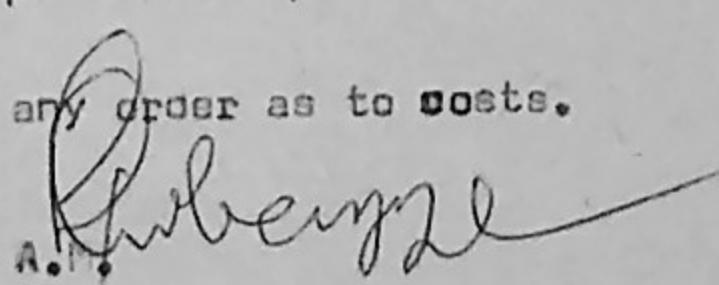
The applicant, while working as Inspector of Income Tax in the year 1983, ~~the applicant~~ was awarded zero marks in every subject and a note had also been given against the petitioner's name reading "In the year 1983 zero has been awarded in ~~the~~ every exam paper and the petitioner is debarred from appearing in the examinations to be held in the years 1984 and 1985". The applicant had adopted unfair means and awarded zero marks. It appears that when the answer books were being examined, it was found that the unfair means were adopted in 'Urdu Bahikhata', and kept out some of the papers of the answers books. It is not necessary to refer to earlier proceedings.

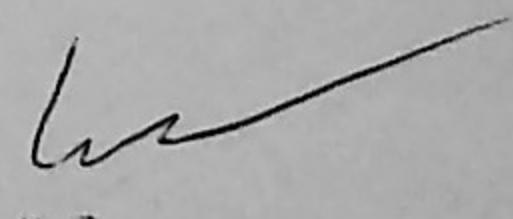
A charge sheet was issued to the applicant. The applicant submitted reply to the same. Thereafter, the enquiry proceeded. From the enquiry proceedings on record we find that the opportunity

was given to the applicant. The Enquiry Officer, after taking into consideration the evidence on record came to the conclusion that unfair means were adopted to by the applicant and accordingly he submitted his report to the disciplinary authority. Two charges were levelled against the applicant. In respect of the first charge, the Enquiry Officer came to the conclusion that the answer books were tampered and after removing the two main staples a number of small staples have been used. ~~RECOMMENDATION~~ Enquiry Officer came to the conclusion that it was established beyond doubt that the applicant has tampered with the answer books by including additional pages of different colours. On examination of the assessment records of M/s Kamil Bhai Ismailjee, Moradabad for Asstt. year 1972-73, the enquiry officer found that the return filed by the assessee, the net income shown was Rs 21,027 and exactly this figure was mentioned in the draft assessment order, which was not possible unless the applicant had prior access to the assessment record.

The applicant has challenged the punishment order on variety of ~~various~~ grounds including that the preliminary enquiry was conducted behind the back of the applicant and opportunity was not given to defend himself. As has been indicated above, the preliminary enquiry has nothing to do with the ultimate enquiry. Ultimately, the charges were proved and the opportunity was given to the applicant and the finding was record. There was no flaw in enquiry proceedings. The disciplinary authority was within its jurisdiction to award the punishment. We cannot interfere with the quantum of punishment as contended by the learned counsel for the applicant that the punishment is disproportionate. In view of the punishment given by the respondents, the applicant has not been removed, he has been reduced to lower rank and for a particular period. Accordingly, we dismiss the petition without

any order as to costs.


A. Shafeeq


V.C.