

Reserved:

A2
6

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

...

Registration O.A. No. 173 of 1988

Najmul Hasan Applicant.

Versus

Union of India
and others Respondents.

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

Hon'ble Mr. K. Obayya, Member (A)

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

The applicant who after disciplinary proceedings were completed, was retired from service compulsorily vide order dated 30.5.1986/1.7.1986 and has prayed that the same may be quashed and the period of suspension w.e.f. 22.10.1983 followed by compulsory retirement w.e.f. 4.7.1986 may be treated as a period spent on duty for all purposes, and further the respondents may be directed to pay his arrears.

2. The applicant was working as A.H.R.O. (Accountant) R.M.S. 'G' Division Gorakhpur. He was appointed as Sorter. Disciplinary proceedings were initiated against him under Rule 14 of CCS(CC&A) Rules, 1965 on 29.9.1983 and prior to that, he was placed under suspension vide order dated 22.10.1983. A departmental Enquiry took place in respect of the said charges levelled against him and the enquiry officer submitted his report and the applicant was held guilty and consequently, the said punishment order was passed against him. The applicant has challenged the said punishment order on variety of grounds including that the decision was based on an enquiry which was held

W

A/2

(8)

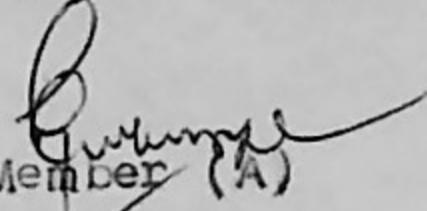
contrary to the provisions of Rule-14 itself. The applicant in support of his defence prayed for production of documents vide letter dated 14.5.1984 and even though, the enquiry officer was satisfied with the relevancy but the documents were not made available to him for inspection. One of the defence witnesses was allowed by the enquiry officer to produce on behalf of the prosecution to fill up the gap in the evidence contrary to the provisions of Rule- 14 & 15, and the applicant having been deprived from the defence witness, thus he was denied opportunity to defend himself. The order is also malafide and vitiated as the D.P.C. has acted mechanically on the enquiry officer's report and has placed reliance on those documents which have no relevancy with the charge, and the findings are based on the ground which did not figure in the imputation of misconduct. The applicant was found guilty only on the ground of his signatures being available on certain documents which has no consistency with the allegations mentioned in the memo of charges for which no opportunity was given to the applicant to refuse the charges related to the verification and allowing draw ^{or} encashment of certain bills for which the applicant was not a competent authority. The order is also a non-speaking order. The allegation of fraudulent payment has not been established as yet, the applicant has wrongly been held guilty ignoring his 25 years of service.

Contd ... 2p/-

3. According to the respondents, full opportunity to defend was given to the applicant and he was not deprived of the same and enquiry was proceeded in accordance with law. According to the respondents, the enquiry ~~was~~ was not bound to summon every documents and as a matter of fact, he summoned the documents which are relevant and material in respect of the charge. In the coringendum of the charge sheet relating to bill No. 57 dated 6.12.1980, the charges were dropped while the charges were in respect of 25 other bills, whereas, the bungling ~~was~~ done by the applicant stood as it was. The deletion or mention of one bill did not alter the nature of offence or the gravity of offence relating to remaining 25 bills. The disciplinary authority has based his findings on all counts and not merely on single one. Besides this the signature of the applicant on documents in lieu of authentication of incorrect entries as correct is gist of the charges and there is no variance of charge and findings in the case, the plea of inconsistency is misleading, in this case. We have entered into the merits of the case but we have found that the appellate authority has not passed a speaking order and the appellate authority, has thus, not taken into consideration all the pleas raised which had bearing with the fortunes of the case and that is why it has passed a speaking order notwithstanding the fact that ~~it~~ in this manner has affirmed the findings recorded by the disciplinary authority. While,

deciding the appeal, the appellate authority should have given a personal hearing to the applicant and should have passed a speaking order taking into consideration the pleas raised by the applicant.

4. Accordingly, this application is allowed and ~~and~~ the appellate order dated 18.8.1988 ~~and~~ is quashed and the appellate authority is directed to pass a speaking order after giving personal hearing to the applicant taking into consideration all the pleas raised by him. The application is allowed in the above terms. No order as to costs.


Member (A)


Vice-Chairman

Dated: 11th February, 1993.
(n.u.)