

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 4<sup>th</sup> DAY OF MAY, 1995

Original Application No. 240 of 1988

HON. MR. JUSTICE B.C. SAKSENA, V.C.

HON. MR. S. DAS GUPTA, MEMBER (A)

Kulwant Singh

.... Applicant

BY ADVOCATE SHRI YATENDRA SINGH

Versus

1. Surveyor General of India
2. Director, Geodetic & Research  
Branch
3. O.C. No. 19 party (G & RB)  
Survey of India

.... Respondents

BY ADVOCATE SHRI N.B. SINGH

O R D E R (Reserved)

JUSTICE B.C. SAKSENA, V.C.

Through this O.A., the applicant challenges the order of punishment dated 25.6.86 (Annexure 'J') as well as the order passed by the Appellate Authority dated 15.1.87 (Annexure 'L'). The applicant also seeks a direction that the respondents be directed to delete from the service book and relevant records of the applicant remarks of Censure entry made by them. By way of consequential relief the applicant seeks a direction to be issued to the respondents to grant annual increment of pay w.e.f. 1.10.86 which had become due but was withheld on account of illegal punishment awarded to the applicant. The



A2/2  
11

applicant also seeks a direction to the respondents to refund Rs.2144.33p which had been illegally recovered from him by the respondents.

2. The facts in brief are that on the basis of the charge-sheet dated 28.4.86 issued under Rule 16 of the C.C.S(CCA) Rules an enquiry was held and the respondent no.3 passed the order of punishment of with-holding one (next) increment for one year without cumulative effect as also punishment of censure. An appeal against the said order was filed and the same was rejected.

3. The applicant was detailed as Astro Department Officer during Summer field 1985. A permanent contingent advance of Rs.10,000/- was paid to the applicant. On scrutiny of the contingent bill submitted by the applicant it was revealed that an excessive payment to the extent of Rs.2144.33 was made. The payment of the said contingent bills was made by a subordinate of the applicant and therefore it is alleged that he did not discharge the responsibility of disbursing Govt. money <sup>which</sup> lies on the Detachment officer as per para 38 of Accounts Pamphlet (Chapter I & II) and thus he failed to perform his duties with due devotion. The applicant does not dispute that he was given ~~given~~ contingent advance. He, however, alleged that there is a distinction between a Detachment officer and a Camp Officer. Thus ~~xx~~ para 38 of the Accounts Pamphlet will not apply. His submission making such distinction is of no relevance. The fact <sup>is</sup> that the applicant had admittedly been given the contingent advance of Rs.10000. 5 sub-vouchers were submitted by him and it was held from the information collected from some

82 ...p3



A2/3  
12

Group 'D' employees working under him in the field that an excess payment of Rs.2144.33 have been done.

4. The applicant has also alleged that he was not furnished with the copies of the statement of the group 'D' employees. However on the material on record, it is clear that on the applicant's asking to be furnished the copies of statements of the witnesses he was ~~not~~ permitted to see the records. The learned counsel for the applicant was unable to indicate that there would be violation of principles of natural justice.

5. His second ground against the impugned order is that the applicant repeatedly drew attention to the distinction between the Detachment Officer and the Camp Officer. He was informed by a letter dated 10.6.86 contained in Annexure 'G' that it was <sup>of no consequence</sup> ~~irrelevant~~ whether he was employed as Detachment officer or Camp Officer. He was required to give his explanation. As already held ~~has~~ hereinabove, the contingent advance to the applicant to a sum of Rs.10,000/- is not disputed by the applicant. The respondents have taken <sup>the</sup> plea that ~~that~~ the applicant was responsible to keep the actual cash in the safest place by maintaining a cash book, utilise the government funds only for govt. purposes, to obtain a written receipt for all cash paid out of contingent bill. It has further been pleaded that it was the duty of the applicant to see the receipt is such as to be acceptable to his superior officer and or to the audit.

6. The sub vouchers contained a thumb impressions without the name and address of the payee so as to enable the authorities to verify the said receipt. It has been stated in the counter that a squad inquiry was made to



22/4

13

investigate the payments made by the applicant. The squad has taken written statement from the applicant and detailed findings were recorded. The said findings have been reproduced in para 9 of the counter affidavit. The reasons for holding the applicant guilty was that the applicant had over charged in the vouchers of the contingent bills in general. As per his statement he has not been making the payment himself which he should have been done by him as he had the responsibility of disbursing the government money entrusted to him. It was also found that since the statements of most of the khalasis and Recorder differs from each other, we are of the opinion that there has been dereliction of duty on the part of the applicant. Consequently, the punishing authority had imposed the punishment. We further find that by a letter dated 27.4.86 CA-XIV details of over payment made by the applicant as Camp officer were sent to him for information pursuant to his application dated 8.5.86. The details given in the said letter were not squarely met by the applicant. Thus we find no reason to interfere with the order of punishment. There has been no denial of reasonable opportunity. The applicant had been permitted to inspect the record asked for by him. It is well settled that the Tribunal does not act as a court of appeal and it would not be open to the Tribunal to analyse the evidence on record and come to a different conclusion which the disciplinary authority took. Appreciation of evidence and conclusions thereon lie within the exclusive domain

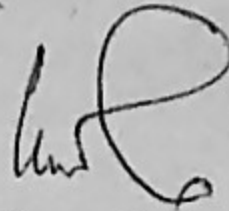


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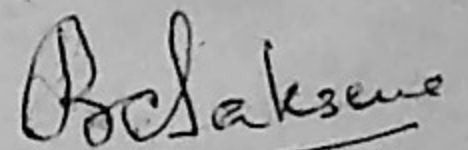
A2/5  
14

of the disciplinary authority.

7. In the light of the above, we see no justification to interfere with the orders of punishment. No case for grant of relief prayed for is made out. The O.A. is accordingly dismissed. Parties to bear their own costs.



Member (A)



Vice Chairman

Dated: 4<sup>th</sup> May, 1995