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CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Original Application No: 811 of 1988

Babu Lal Sharma Applicant.

Versus

Superintendent Posts,
Etawah & Others. Respondents.

Hon'ble Mr. S.Das Gupta, Member-A

Hon'ble Mr. T.L.Verma, Member-J

(By Hon'ble Mr. T.L.Verma, J.M.)

This application under Section 19 of the Administrative Tribunal's Act, has been filed for setting aside order dated 14.10.1987 (Annexure A-5) whereby punishment of withholding of next increment for two years without cumulative effect, has been passed and order dated 29.9.1988 (Annexure A-6) whereby ~~xxix~~ appeal against the punishment order has been rejected and ~~remanded~~ for remanding the proceeding for holding fresh inquiry under Rule 14 of the CCS CCA Rules by an officer of the R.M.S. Wing on a chargesheet.

2. The facts giving rise to the present O.A. in brief are that the applicant, Babu Lal Sharma, while working as Senior P.A. Marhara S.P.M. Patiyala, applied for L.T.C. advance to avail L.T.C. facility from Etah to Kanyakumari and back with his family. It is said thereafter that he presented L.T.C. claim for Rs. 7,800/- which, on inquiry, was found to be false inasmuch as ^{his} sons and daughters on whose account journey had been charged, ^{found} were present in their respective educational institution during the period, the L.T.C. journey is said to have been performed. He was served with a memo dated

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14.7.1987 informing that action under Rule 16 of the CCS CCA Rules was contemplated against him on the charge that he had made false claim for journey which was not actually performed by his children. The applicant submitted his defence statement on 23.7.1987. The disciplinary authority, on a consideration of the memo of charges, defence statement of the delinquent official and other relevant records, found that the charge was substantiated and accordingly, by impugned order dated 25.9.1987 ordered that his next increment be withheld for a period of 2 years without cumulative effect by way of punishment. The punishment order has been upheld in appeal by the appellate authority by order dated 29.2.1988.

3. It is stated that the applicant has not been given opportunity to crossexamine the authority of the school who granted certificates regarding presence of the children of the applicant in thier respective educational institution during the relevant period and as such the impugned orders based on the above certificates, cannot be sustained because principle of natural justice has been violated.

Further case of the applicant is that certificates showing absence of the children of the applicant were enclosed with the written statement of defence. The disciplinary authority, however, has based his finding on certificates which are not genuine and as such an inquiry under Rule 14 of the CCS CCA Rules should have been arranged to settle the dispute as to the genuiness of the certificates. In this view of the matter also, it is stated, the impugned orders, cannot be sustained.

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4. The respondents have filed Counter Affidavit contesting the claims of the applicant.

5. We have heard the rival contentions and perused the record. The chargesheet has been submitted for minor punishment under Rule 16 of the CCS CCA Rules. The applicant submitted his defence statement on 23.7.1987. The applicant claims to have submitted certificate of absence of his children from the concerned educational institution along with the L.T.C. bill and alleges that S.D.I. Aligarh obtained and submitted false certificates for the absence from school by threatening teachers of the school. The certificates, xxxx obtained by the respondents in course of the fact finding inquiry, were issued in 1984. Memo along with chargesheet was served on the applicant on 20.7.1987 after fact finding inquiry was held. The defence taken by the applicant that the certificates obtained from the respective educational institution were forged and appear to be after thought and as such is not sufficient to rebut the presumption of the official acts having been correctly performed. The certificates have been issued by the principal in discharge of his official duty. Therefore, presumption of correctness attach will apply to these certificates. The statement of defence was considered by the disciplinary as well as the appellate authority in the light of the material before them and was found to be unsatisfactory. In our opinion, no prejudice has been caused to the applicant by not holding an inquiry under Rule 14 of the CCS CCA Rules. That apart, the finding and decision of the disciplinary authority cannot be said to be tainted with any illegality as may warrant remitting the same for

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inquiry under Rule 14 of the CCS CCA Rules. It may also be mentioned here that Rule 16 (1-A) provides for holding of an inquiry even when a minor penalty is to be imposed in the circumstances indicated therein. The relevant portion of the Rule is being extracted below for convenience of reference;

"Notwithstanding anything contained in clause (b) of sub-rule (1), if in a case it is proposed after considering the representation, if any, made by the Government servant under clause (a) of that sub-rule, to withhold increments of pay and such withholding of increments is likely to affect adversely the amount of pension payable to the Government servant or to withhold increment of pay for a period exceeding three years or to withhold increments of pay with cumulative effect for any period, an inquiry shall be held in the manner laid down in sub-rules (3) to (23) of Rule 14, before making any order imposing on the Government servant any such penalty."

The case of the applicant is not covered by provision of sub rule 1-A of rule 16 quoted above. In other cases, where a minor penalty is to be imposed, Rule 16 (1) leaves it to the discretion of the disciplinary authority to decide whether an inquiry should be held or not. In the facts and circumstances of the case, the decision of the disciplinary authority not to hold such an inquiry, cannot be said to be unjust or unreasonable.

6. In the light of discussions made above, & we find no merit in this application and the same is dismissed. There will be no order as to costs.

Johnna
Member

Member-J

W.E.

Member-A

Number 1-5
Allahabad Dated: 18.7.84
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