

(21)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1261 of 1988

K.R.Arya

... Applicant

Versus

Union of India & others

... Respondents

HON'BLE MR. JUSTICE B.C.SAKSENA - VICE CHAIRMAN
HON'BLE MR. K.MUTHU KUMAR - MEMBER (ADMINISTRATIVE)

(By Hon'ble Mr. K.Muthu Kumar - AM)

The applicant was working as Senior Clerk at I.V.R.I. Bareilly. He has prayed for quashing of the order dated 16-11-87 (Annexure-22) passed by the Disciplinary Authority and the order dated 20th May, 1988 (Annexure-23) passed by the Appellate Authority.

2- The disciplinary proceedings against the applicant were initiated on 13th March, 1984. According to articles of charge and the statement imputation & in support thereof, it was stated that he had received Rs. 4800/- on the basis of a false L.T.C. claim submitted by him in respect of his family members by which act he had shown absolute lack of integrity and conduct unbecoming of a government servant violating Rule-3(i)(i)(iii) Central Civil Services (Conduct) Rules, 1964. On the basis of the enquiry held in the disciplinary proceedings the Enquiry Officer held in his report that the charge against Shri K.R.Arya (applicant) as proved and on the basis of the findings of the Enquiry Officer, the Disciplinary Authority by its order dated 16-11-1987 imposed the penalty of reduction of pay by two stages for a period of 3 years and that he would not earn increment during the period of reduction and on the expiry of the period, the reduction would not have the effect of postponing his future increments of pay. The appeal against the Disciplinary Authority's order was also dismissed by the Appellate Authority by its order dated 20-5-1988.

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3- The counsel for the applicant was not present while the counsel for the respondents was present. The applicant has averred that he was not afforded reasonable opportunity for his defence during the enquiry and the Enquiry Officer did not act impartially and acted on the direction of the Disciplinary Authority, and therefore the whole disciplinary proceedings are illegal and against the law of natural justice, fair-play and good conscience and the Appellate Authority has also passed an unreasoned order without application of his mind. The counsel for the respondents has stated that the applicant has been given full opportunity during the proceedings for his defence and was given time of 2½ years and the order of the Disciplinary Authority and the Appellate Authority are just and proper in the circumstances of the case.

4- On the examination of the facts and records of the case, it is abundantly clear that the Enquiry had been conducted according to rules and procedures in this behalf and full opportunity was provided to the applicant for his defence and that there is no evidence of any bias against the applicant. The Appellate Authority also did not find justification to interfere with the order of the Disciplinary Authority and there is no reason to believe that there is no application of mind. The function of the Tribunal in such a judicial review has to confine itself to the decision making process and as observed by the Hon'ble Supreme Court in Union of India Vs. Upendra Singh JT. 1994(i) SC 658;

"The function of the Tribunal is one of judicial review, which is not an appeal from a decision, but a review of the manner in which the decision is made."

As the disciplinary proceedings have been conducted according to rules and procedures and full opportunity has been provided to the

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applicant, we see no reason to interfere with the orders passed by the Disciplinary Authority and the Appellate Authority and the application is accordingly dismissed. There is no order as to costs.

MEMBER (A)

DATED: Allahabad July 4th 1994.

(IS PS)

B. Saksena

VICE CHAIRMAN
