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OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD.

Allahabad this the 1st day of September 2000.

Original Application no. 1590 of 1992.

Hon'ble Mr. Rafiq Uddin, Judicial Member  
Hon'ble Mr. S. Biswas, Administrative Member

Chunni Lal,  
S/o Late Garib Das,  
R/o Harijan Colony,  
P.O. Babina Cantt.,  
Distt. Jhansi.

...Applicant

C/A Shri M.P. Gupta

Versus

1. The Union of India through  
The Secretary, Ministry of Defence,  
Government of India,  
NEW DELHI.
2. The Commander, Head Quarters,  
Allahabad Sub Area,  
ALLAHABAD.

.. Respondents

C/Rs. Km. Sadhana Srivastava

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O R D E RHon'ble Mr. Rafiq Uddin, Member-J.

The applicant has challenged the validity of the order dated 09.04.90, issued by the Commander, Head Quarters, Allahabad Sub Area, Allahabad (Respdt no. 2) and the order dated 20.11.91 passed by the appellate authority. By the order dated 09.04.90 the applicant has been dismissed from service, while by order dated 20.11.91 the appeal filed by the applicant against his dismissal has been rejected.

2. The brief facts of the case are that the applicant who was working as conservancy safaiwala at Station Head Quarter, Babina was served with charge sheet dated 31.10.88 for major penalty. According to the allegations made in the charge sheet it was found that the applicant was an Ex-serviceman, but at the time of his appointment in the present department, the applicant had not declared his Ex-serviceman's status. It was also alleged that the applicant made false statement declaring his date of birth as 27.1.32. Thus it was alleged that the applicant committed a fraud with the Govt. by causing financial loss to the State by way of receiving pay and allowances for a period beyond the age of his superannuation.

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The applicant submitted his reply to the charge sheet and the disciplinary authority after considering his reply and after due inquiry passed the impugned dismissal order. Appellate authority, however, modified the penalty order of dismissal by reducing the same to the penalty of compulsory retirement, vide impugned order dated 20.11.91.

3. Heard Shri M.P. Gupta learned counsel for the applicant and Km. Sadhana Srivastava learned counsel for the respondents and perused the record.

4. The main contention of the learned counsel for the applicant is that the impugned punishment order as well as appellate order are not speaking and the disciplinary authority has not considered and given his findings regarding the defence reply submitted by the applicant. Learned counsel for the applicant, therefore, urged that the impugned order is illegal being non speaking. We do not find any force in this argument because it has been specifically mentioned in the impugned punishment order that the same has been passed after considering the reply submitted by the applicant. We have also considered the nature of the allegation made against the applicant. It has not ever been pleaded that the allegations made against him in the charge sheet are actually wrong. It has been merely stated that the explanation submitted by the applicant has not been considered because the applicant had disclosed his status being exserviceman

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in the year 1983. Therefore, action should have been taken against him in the year 1983 and he should have been retired on the basis of his date of birth mentioned in his previous military services. It has also been urged that the applicant did not receive and DA on his pension during the period in question. Therefore, allegation of committing fraud and causing financial loss as pleaded has not been made out. We are however, not convinced with this argument because of the concealment of the facts by the applicant that he being an ex-serviceman at the time of appointment on 4.10.68 and mentioning his wrong date of birth in the service record are sufficient facts which can prove the misconduct on the part of the applicant and to justify the punishment order. No other irregularities has been pointed out in conducting inquiry against the applicant. We are satisfied that the inquiry has been conducted properly. Considering the facts that the appellate authority has already taken a lenient view by reducing the dismissal into compulsory retirement, we do not find any justification to interfere with the order of the appellate authority.

5. Learned counsel for the applicant has pointed out that the applicant has not been paid retirement benefits by the respondents. There is no such prayer in the Original Application. However, we direct the respondents to take proper steps

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in granting him the retiral benefits which he is entitled to, as per rules. Necessary orders may be passed within a period of three months from the date of communication of this order.

6. There shall be no order as to costs.

*S. B. Jain*  
Member-A

*R. J. Madam*  
Member-J

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