

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 31st day of August 2000.

Original Application no. 1150 of 1992.

Hon'ble Mr. Justice R.R.K. Trivedi, Vice-Chairman
Hon'ble Mr. M.P. Singh, Administrative Member

R.M. Updhyaya,
S/o R.B. Updhyaya,
Incometax Inspector,
Agra.

... Applicant

C/A Shri V.K. Burman

Versus

1. Union of India through Commissioner, of Income Tax, Agra.
2. Chief Commissioner, of Income Tax, Kanpur.
3. Commissioner of Income Tax, Kanpur.

... Respondents

C/Rs Shri A. Sthalekar



O R D E R

Hon'ble Mr. Justice R.R.K. Trivedi, VC

This application under section 19 of the Administrative Tribunals Act, 1985 has been filed challenging the order of punishment dated 31.7.90 passed on conclusion of the disciplinary proceedings. The applicant has been punished by a major penalty ~~and~~ by reduction of his pay by three increments from the present pay of Rs. 2060/- and ~~other~~^{wards} he was reduced to pay scale of Rs. 1880/- for a period of two years, w.e.f. 01.08.90. It has also been provided that the applicant will not earn any increment during this period of two years. It is further directed that on expiry of this period, the reduction to a lower stage in the time scale will have the effect of postponing his future increments of pay which would accordingly be based on the reduced pay of Rs. 1880/-.

2. The applicant ~~has~~ challenged the aforesaid order in appeal. However, the appeal has been dismissed by order dated 10.05.1993.
3. We have heard Shri V.K. Burman learned counsel for the applicant and Shri A. Sthalekar learned counsel for the respondents.
4. Sri Burman has submitted that the charges were vague and uncertain. There was no material to prove the charge for which the applicant has been



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punished and the order is arbitrary cannot be sustained. Learned counsel for the applicant has placed before us the order of punishing authority in detail in respect of charge no. 2. Learned counsel for the applicant also placed reliance on the judgment of Madras Bench of CAT in the case of Raj Kumar Singh vs. Union of India & Others, reported in (1992) 1 SLR 280. Shri A. Sthalekar, on the other hand submitted that the charge was very specific. It has been found that the impugned order is concluded by the findings of the fact and do not call for interference by the Tribunal.

5. We have carefully considered the submission of the learned counsel for the parties. However, on perusal of the impugned order dated 31.7.90, we find force in the submission made by Sri V.K. Burman. The charge no. 2 levelled against the applicant was that he as Inspector of Income Tax acted beyond the orders of his superior officers i.e. I.T.O. B.Ward Firozabad and thus contravened Rule 3 (i)(iii) of CCS (CCA) Rules. The facts in short with regard to misconduct is that on 16.12.85 applicant was directed by the I.T.O. in writing for the following work "In the last financial year some files were given where the demand was due against them for pursuing the collection. In the alternative, for processing for write off in liable cases. a fortnight, before the last case with demand exceeding Rs. 2,000/-, was given for the same purpose. Please upt up your report of progress done in each case by 18.12.85.

" Sri Updhayaya did not care for above directions but prepared a list of 130 arrear demand cases prepared by him. On this list the ITO gave the following directions :

"Please ascertain the financial position of the assessee noted above to recover the demand.
The cash book may be checked to ascertain the cash in hand."

6. . . It appears that while ascertaining the financial position of the assessee from the list, he checked the shop of Sri M.K. Jain and besides the cash book, he also checked the chalan, ledger and signed stock register. The charge against the delinquent employee is that he exceeded his authority as he was not authorised to check the chalan, ledger and stock register. The disciplinary has interpreted the the order dated 16.12.85 mentioned above that ~~he~~ the ITO only gave permission to check the cash book and prohibited the applicant from looking into any other documents of the assessee. In our considered opinion approach of the disciplinary authority was not justified. From plain reading of the direction it appears that for assessing the cash ~~book in hand~~ ^{is permitted to} the ITO ~~may~~ check the case book. But for the rest of the matter he left it to the applicant to act according to ^{his} wisdom ~~and~~ for ascertaining the financial position. There is nothing in the order prohibiting from looking into any other record. Even assuming for the sake of argument that he was authorised to look into the cash



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book, even then in our opinion mistake is not made out as stated. The order was silent and did not specify any other mode or manner for ascertaining the financial position.

7. In our opinion the punishment of major penalty for this alleged small infraction is not in any way justified. There is nothing to show that the applicant acted in clandestine manner, he signed all the documents which he had checked during inspection. The charge levelled against him that he demanded money from the parties has not been accepted. In the circumstances in our opinion the punishment was not justified. The appellate authority dismissed the appeal of the applicant for the same reason, for which the disciplinary authority passed order of punishment. In our opinion the order cannot be sustained.

8. The OA is accordingly allowed. The orders dated 31.7.90 and 10.05.93 are quashed. The applicant shall be entitled for the payment of the arrears of the pay & refixation of salary for the period he was put on duty & advancement of pay with all consequential benefits.

9. There shall be no order as to costs.

AM
A. M.

V.C.
V.C.

/pc/