

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD,

Allahabad this the 12th day of September 2000.

CORAM:- Hon'ble Mr. Rafiq Uddin, Member-J

Hon'ble Mr. S. Biswas, Member-A.

Orginal Application No. 1760 of 1994.

I.N. Mishra, S/o Late Mahadeo Prasad Mishra
R/o 428, Sivaji Marg, Rajrooppur,
Allahabad.

..... Applicant.

Counsel for the applicant:- Sri H.S. Srivastava.

V E R S U S

1. The Union of India through Secretary,
Ministry of Defence (Finance), New Delhi.
2. The Financial Adviser, Ministry of Defence
(Finance), New Delhi.
3. The Controller General of Defence Accounts,
West Block- V, R.K. Puram, New Delhi-110066.
4. The Controller of Defence Accounts (OtherRanks)
North, Meerut.
5. The Chief Controller of Defence Accounts
(Pensions), Allahabdd.

..... Respondents.

Counsel for the respondents:- Km. Sadhna Srivastava.

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O R D E R (oral)

(By Hon'ble Mr. Rafiq Uddin, J.M.)

The applicant has sought for quashing of his punishment order dt. 30.08.93, passed by respondent No.3, The Controller General Of Defence Accounts contained in annexure A-3 to this O.A and also the order dt. 24.05.94, passed by the Appelate Authority namely Financial Adviser, Minstry of Defence (Resp..2) contained in annexure A-12 to this O.A and for grant of all consequential benefits. The applicant has also sought direction to the respondents to consider his case for promotion to the post of Senior Account Officer from the date his immediate junior has been promoted and place him above his juniors in the seniority list with all consequential benefits.

2. The applicant at relvant time was posted as Pay Account Officer (Other Ranks), Faizabad and one Sri S.L. Yadav, Auditor was holding the charge of Cashier since 01.06.98. According to the applicant since functioning of Sri S.L. Yadav as Cashier was most unsatisfactory and he was unable to perform the Cashier's duty effectively and efficiently, The applicant called for volunteers from amongst the staff to perform the duties of Cashier. Since no volunteer came forward, the applicant selected three Auditors and forwarded their names to the Controller of Defence Accounts (Other Ranks), North, Meerut, recommending the name of Sri R.A. Yadav for approval and issue of order for his appointment as Cashier. However, no reply was recieived by the applicant. Hence, Sri S.L. Yadav already working as Cashier also submitted an application on 31.07.91 showing ^{selecting} ~~ineligibility~~ to work as Cashier, The applicant had no option but to entrust the duties of Cashier

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~~to~~ Sri R.A. Yadav has stop gap arrangement as per practice. Sri R.A. Yadav was given the charge of Cashier on 07.08.91 temporarily purely on Ad-hoc basis subject to approval of the Head Quarters Office. On 27.08.91 Sri R.A. Yadav, ^R Cashier ~~was~~ informed the applicant that the Cheque dated 22.08.91 for Rs. 7050/- has been encashed from the Bank against Public Fund. The cheque in question was not issued by him. On enquiry it was transpired that the cheque in question was written in the hand of the previous Cashier Sri S.L. Yadav and the signature of the applicant was forged. The cheque in question was also presented for encashment on 23.08.91. It was reported by the applicant to Headquarter as well as Zonal Office and also lodged F.I.R with the Police Authorities. An explanation of the applicant was called for on 15.11.91 by the Zonal Office, Lucknow which was replied on 05.12.91. Thereafter, the disciplinary authority memorandum dt. 07.12.92 under rule 16 of the C.C.S (C.C.A) Rules 1965 alleging the lack of devotion to duty on the part of the applicant and contravening to provisions of rules 3(1) (II) of C.C.S (Conduct) Rules, 1964. On receipt of memorandum by the applicant, replied the same on 27.05.93 denying the charges. The disciplinary authority on 30.08.93 imposed on the applicant penalty of reduction of his pay to the stage of Rs. 3050/- from the stage of Rs. 3126/- in time scale of pay of Rs. 2375-3500 for a period of one year from the date of this order. It was also provided that the applicant will earn increments of pay during the period of such reduction and on expiry of such period the reduction will not have effect of postponing his future increments of pay. In other words during the period of penalty the applicant will draw his pay, reduced by one stage only.

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3. The main grounds on which the punishment order has been challenged are that the penalty in question has a cumulative effect on the pay and allowances of the applicant as his promotion and fixation of pay has been delayed by about six years as compared to his juniors. It has also adversely effected his pensionary benefits. The applicant thus has been put to financial loss not only during the remaining part of his service but even after retirement. The applicant has also pleaded that penalty imposed against him is so heavy which is not proportion to the loss occurred to the Government. The loss caused to the Government was due to fraudulent act of the ex-cashier against whom the departmental disciplinary proceedings are still pending.

4. We have heard Sri H.S. Srivastava, learned counsel for the applicant and Km. Sadhna Srivastava, learned counsel for the respondents. and also perused the records.

5. It has been argued by the learned counsel for the applicant that the allegations levelled against the applicant that he is responsible for the loss caused to the Government and loss caused to the Government due to act of ex-cashier Sri S.L. Yadav. However, we find from the perusal of ~~minimum~~ ^{minimum} penalty order as well as order of appellate authority that the applicant has been held liable for the lack of supervision and devotion in duty as much as he promoted a Cashier namely R.A. Yadav to work without obtaining indemnity Bond and also without approval of competent authority.

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6. It is an admitted case that the applicant did not obtain indemnity Bond from R.A. Yadav and permitted him to work without approval of higher authorities. Moreover the disciplinary authority as well as appellate authority moved their own conclusion on the basis of facts of the case after giving opportunity of hearing to the applicant. We do not find any sufficient ground to interfere with the ^{conclusion} findings and ~~calculation~~ of the disciplinary authority as well as appellate authority.

7. Learned counsel for the applicant has also argued that since as a result of the impugned order the applicant could not be promoted on due date. His pensionary benefits are affected hence impugned order is technically wrong against such order i.e. order of minor punishment can be passed if the same does not affect the pension of the employee. We do not also find any force in this argument because the applicant has already ^{been} promoted in the year 1994 after the period of punishment had expired. We ~~have~~ find that it could not be said that the order has adversely affected the pensionary benefits of the applicant.

8. From the reason stated above we do not find any merit in the O.A and the same is dismissed.

9. There will be no order as to costs.

S. B. Anand
Member-A

R. Shrivastava
Member-J

/Anand/