

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO. 1022/94

FRIDAY THIS THE 20TH DAY OF DECEMBER 2002

HON. MR. JUSTICE R.R.K. TRIVEDI, VICE CHAIRMAN

HON. MAJ GEN K.K.SRIVASTAVA, MEMBER(A)

Virendra Kumar Dixit,

s/o Late Sri K.K.Dixit,

Senior Auditor,

A.A.O. SAF

Kanpur, r/o 18/13 Sewa Gram Colony,

Kanpur-22 Applicant.

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

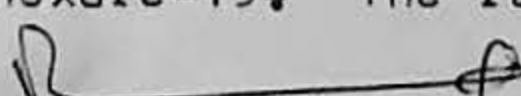
Versus

1. Union of India through the Secretary, Ministry of Defence, New Delhi.
2. The Financial Advisor Defence Services (FADS) Government of India, Ministry of Defence, New Delhi.
3. The controller General of Defence Accounts West Block V,R.K.Puram, New Delhi- 110066.
4. The Chief Controller of Accounts (Factories) IOA, Auckland Road, Calcutta. Respondents.

O R D E R

HON. MR. JUSTICE R.R.K. TRIVEDI, VICE CHAIRMAN

By this O.A under section 19 of Administrative Tribunals Act, 1985, applicant has challenged the order of punishment dated 27-10-1984 (Annexure A-14) by which Disciplinary Authority, Controller General of Defence Accounts, imposed penalty of withholding his two increments for two years with cumulative effect. The order was challenged in appeal, which was dismissed by order dated 27-11-1989 Annexure-19. The revision filed under



section 29 was also dismissed by order dated 27-4-1993.

2. The facts of the case are that applicant was served with a memo of charge dated 29-3-1982. The allegation against him was that he ceased to perform official duties from 29-4-1981 to 16-5-1981 and by this act applicant exhibited utter lack of devotion to duty. The another charge was that applicant refused to accept an official letter dated 16-5-1981. He was further charged that applicant organised unauthorised meetings and delivered speeches inside the office premises during office hours on 28-4-1981, 7-5-1981, 8-5-1981 and 11-5-1981 thereby instigating other members of staff to go on strike. Total charges against applicant were 8. The serious charge against the applicant was that on 4-12-1981, applicant used abusive language and demanded from Shri R.K.Anand ACA(Fys) the return of an official document which, according to applicant, was forcibly taken by Shri R.K.Anand, ACA from shri Banarsi Lal, Record clerk of Accounts Office. On same date applicant physically obstructed the way of Shri R.K.Anand, ACA when he was coming out of his room and getting into the staff car to go to the DCA Shri Y.S.Negi's Office. The applicant further physically assaulted shri R.K.Anand ACA and dragged him back to his room. The inquiry Officer found all the 8 charges proved against the applicant. The Disciplinary Authority agreed with the findings of the Inquiry Officer and passed the punishment order as mentioned above. Learned counsel for the applicant Shri H.S.Srivastava has assailed the order of

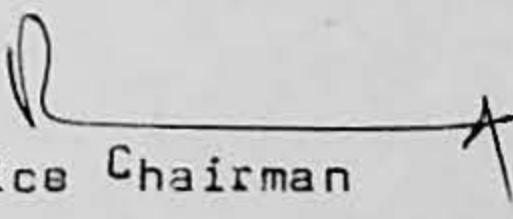
punishment on the ground that applicant was not afforded the opportunity of hearing and the inquiry proceeding was completed Ex-parte against him. Applicant was denied opportunity to cross-examine the witnesses. The similar submissions were raised before the Appellate Authority. The Appellate Authority, however, rejected the contentions by his detailed order and recorded ~~detail~~ findings that applicant was given reasonable opportunity to cross-examine the witnesses but he refused. In order to appreciate the aforesaid aspect of the case, we have examined the original record of disciplinary proceedings of the Inquiry which has been placed before us by Shri A. Mohiley, learned counsel for the respondents. From perusal of ~~it~~ ^{the same} appears that inquiry commenced in 1982 and it was concluded in 1984. Sixteen witnesses were called for examination ^{on behalf of} ~~on~~ 19-1-1984 to 20-1-1984. However, applicant and his defence assistant absented. The Inquiry Officer, in the circumstances, recorded the evidence ~~on record and examined in chief of the~~ ^{from} ~~witnesses~~ and fixed another date 25-2-1984 for cross-examination ^{by} the applicant. However on 25-2-1984 again though applicant appeared but he refused the cross examination of the witnesses on the ground that his Defence Assistant was not present. The witnesses were called ^{from} ~~very far~~ of place on two dates but the applicant failed to cross examined them. Considering the facts of the case and reasons recorded by



the Inquiry Officer, we have no doubt that applicant could not blame anybody ~~except~~ for himself for not participating in the Inquiry proceedings. Sufficient opportunities were given, and it cannot be said that the principles of natural justice were violated in any manner.

3. The learned counsel for the applicant lastly submitted that the punishment awarded is not commensurate to the charges. We have seriously considered this aspect of the matter also. However, the applicant indulged himself actively in dragging the Senior Officer from outside. He was confined ~~and~~ ^{of} in the Office for hours, ~~he was~~ beaten and abused. For such conduct, the punishment awarded cannot be said to be harshed. We do not find any good ground for interference. The D.A is devoid of merit and accordingly dismissed with no order as to costs.


Member-A


Vice Chairman

Madhu/