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OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 11th day of April, 2001.

Original Application No.114/1995.

CORAM :-

Hon'ble Mr. SKI Naqvi, J.M.

Hon'ble Maj Gen KK Srivastava, A.M.

Lalit Kumar son of Sri

Supdt B/R Gdr I, AGE(II)

Raiwala, Dehradun.

(Sri KP Singh, Advocate)

. Applicant

Versus

1. The Union of India, through Ministry of Defence, New Delhi.
2. The Engineer-In-Chief, Army Headquarters, New Delhi.
3. The Chief Engineer, Headquarters, Central Command, Lucknow.

(Sri Prashant Mathur, Advocate)

. Respondents

ORDER (Oral)

By Hon'ble Mr. SKI Naqvi, J.M.

Sri Lalit Kumar has come up seeking relief to the effect that the impugned reversion order dated 26-12-1994 passed by the respondent no.2 (Annexure-A-1) be quashed.

2. As per applicant's case, when he was working as Supdt. B/R Gde I in the respondents establishment, he was entrusted with supervision of construction of museum building. The construction was found to be of sub-standard for which a preliminary enquiry was held and four officers/officials involved in the matter were recommended for

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further departmental proceedings of whom Colonel Gopal Singh and Naib Subedar NK Gupta, the then AGE (I), Lansdowne, Dehradun as well as the applicant Sri Lalit Kumar, the then Supdt. B/R Grade I of AGE(I) Lansdowne, Dehradun were to be subjected to departmental action.

2. After enquiry in the matter and after submission of enquiry report the applicant has been punished with the penalty of reduction to lower post of Supdt. B/R II from the post of Supdt B/R Gde I until he is found fit for a period of three years from the date of the order i.e. 26-12-1994. The applicant has preferred this OA against the punishment order mainly on two counts as under :-

(i) he has been discriminated and picked out to be punished whereas other three officers/officials who were also as ~~responsible~~ ^{big b6 G} as the applicant, but they are left scot free.

(ii) secondly, the authority, who passed the impugned order, which is in the nature of major penalty is not the authority competent to impose penalty.

3. The respondents have contested the case, filed counter reply and stated the facts to meet the allegations that it is not a case in which the authority discriminated, ~~among~~ the allegedly persons responsible for supervision of construction work. It has also been mentioned that the punishment order has been passed under duly delegated powers and, therefore, the order cannot be assailed on this ground.

4. Heard Sri KP Singh, counsel for the applicant and Sri Prashant Mathur, counsel for the respondents.

S. K. S.

5. We have heard at length, perused the record and ^{Sai} find that it is not a case in which it can be held that the applicant has been discriminated by being punished and ^{also} other officers/officials who were held responsible have been left out. It is quite evident from the pleadings and documents on record that Colonel Copal Singh and Naib Subedar DS Dhal were dealt with administratively for which the military provisions are quite different than the provisions applicable in the case of applicant. So far as the position of Sri NK Gupta, the third alleged delinquent is concerned, he opted for and was allowed to proceed on voluntary retirement w.e.f. May, 1993 from the post of AGE, AGE(I), Raiwala, Dehradun i.e. the post held by him during the relevant time for which the whole controversy erupted and, thereby the allegation of the ^{Si} applicant that ^{he} was promoted during the enquiry proceeding ^{Si} does not substantiate and under these circumstances the position of Sri NK Gupta cannot be equated with the applicant.

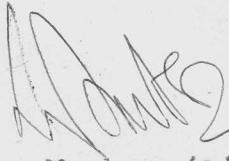
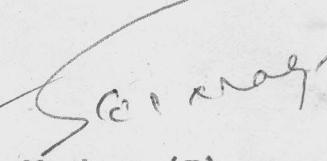
6. The next question is that ^{his} original appointing authority was Engineer-In-Chief, whereas the punishment has been imposed by the Chief Engineer, Central Command, who is lower in rank and, therefore, could not impose the major penalty. Sri Prashant Mathur, learned counsel for the respondents ^{Ex} put us through the circular dated 16-8-1979 through ^{which} the powers have been delegated to the Chief Engineer enabling him to impose major penalty which has also been covered in para 27 of the counter affidavit. But we find that this provision does not enable the delegated authority to impose the major punishment as it has been done in the present matter. This position has ^{been} very well ^{clarified} in para 21.1 of Chapter IX of the Vigilance Manual VII Edn. and para 4 of Govt. of India

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Memo dated 3-12-1973 which have been referred in Annexure-14 to the OA.

7. With the above position in view we are not in a position to sustain the punishment order and thereby the impugned order dated 26-12-1994 is set aside with all consequential benefits to the applicant. Further it will be open for the competent authority in the respondents establishment to pass fresh order keeping in view the above observation.

8. There shall be no order as to costs.

 
Member (A) Member (J)

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