

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 17th DAY OF JULY, 1995

Original Application No. 594 of 1995

HON"BLE MR. JUSTICE B.C. SAKSENA, V.C

HON. MR. S. DAS GUPTA, MEMBER(A)

Malkit Singh, son of Shri Bachan Singh
Senior Library & Information Asstt
Lal Bahadur Shastri National Academy of
Administration, Mussoorie, Dehradun.

Applicant

BY ADVOCATE SHRI S.D. SINGH versus

Versus

1. The Union of India, through Ministry of Personnel, Public Grievances & Pensions, Department of Personnel Training, New Delhi.
2. Lal Bahadur Shastri National Academy of Administration, Mussoorie through its Director.

o r d e r (reserved)

JUSTICE B.C. SAKSENA, V.C.

We have heard Shri S.D. Singh, learned counsel for the applicant when the O.A came up for orders as regards admission. The OA is directed against the memorandum dated 9.3.95 rejecting the applicant's appeal against the order of punishment dated 8.11.94 reverting the applicant.

2. The brief facts are that the applicant was working as Senior Library and Information Assistant. One Miss. madhu Chhetri is stated to have made a complaint against him to the Deputy Director, Administration of Academy, Lal Bahadur Shastri National Academy, Mussoorie, Dehradun alleging that the applicant had misbehaved with her on the night of 21.12.90. The applicant is alleged to have gone to the residence of Miss.Madhu Chhetri to borrow a hot water bottle. It is further alleged that the said Miss MADHU Chhetri had withdrawn her complaint on 24.12.90. However, a second complaint was made on 25.5.91 before the Grievances Officer, copy of which is Annexure A-3. The applicant's

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statement was recorded and thereafter a charge-sheet was issued on 15.7.91. After a departmental inquiry, the Enquiry Officer on a totality of the circumstances found the applicant guilty. In the meantime, it appears that the applicant had been promoted to the post of Assistant Library and Information Officer on ad hoc basis. By the impugned order he has been reduced to lowest stage of present pay scale for a period of three years without cumulative effect. It was also provided that it will not adversely effect his pension. As noted hereinabove, the appeal against the said order penalty was also rejected.

3. The learned counsel for the applicant submitted that the compromise dated 24.12.90 in which Miss Madhu Chhetri had clearly admitted that she had lodged the complaint under misunderstanding and lack of fairness and had requested the closure of the chapter, had not been considered. This submission is factually incorrect. We find that the Enquiry Officer has after referring to the said document considered the same and had recorded his finding. The Enquiry Officer came to the conclusion that there were opposing versions of the events of the night in question but keeping in mind the total circumstances of the case he found that the version of Miss. Madhu Chhetri was more consistent and relevant. He noted that there was no third party at the time. The incident was not in the presence of the witness and it is almost the case i.e. word of the complainant against the accused persons. He accepted the version of Miss. Madhu Chhetri and stated it had a ring of truth in it.


4. The learned counsel next submitted that the Enquiry Officer has not given due weight to the evidence of Mr. Gyan Chand and Mr. Tej Pal. The Enquiry Officer has dealt

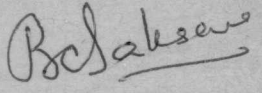
with the evidence of these two witnesses and has **reached** the conclusion that their deposition is unhelpful. They had left when the event took place. This Tribunal does not sit as a court of appeal over the findings of the Enquiry Officer or the Disciplinary Authority. No illegality in the conduct of the inquiry has been committed much less breach of any Statutory Rule. This Tribunal will not re-assess the evidence for itself and reach its own conclusions, the findings recorded by the Enquiry Officer cannot be said to be perverse or based on no evidence. Thus the findings cannot be interfered with.

5. The learned counsel for the applicant submitted that because of the pendency of the inquiry proceedings the promotion of the applicant had been delayed. The delayed promotion in accordance with the learned counsel for the applicant was a punishment in itself and the applicant should not have been punished by reducing him to the lowest stage of the pay scale. What punishment is warranted in the circumstances and allegations lies within the **exclusive** domain of the Disciplinary Authority. On the basis of the findings recorded by the Enquiry Officer the Disciplinary Authority was of the view that punishment was warranted. We do not see any good reason to interfere with the order. No ground has been urged to challenge the order passed by the Appellate Authority. The learned counsel further urged that almost for three years the reserve post of Senior Librarian and Information Officer had remain vacant for want of eligible candidate and some vested interests are working to have the posts be reserved. In the first place since there is only one post, we do not find any merit in the submission that it is a reserve post. The allegations are much **too** vague.

6. No other point has been urged. There is no merit in

in the O.A., it is accordingly dismissed summarily.


MEMBER(A)


VICE CHAIRMAN

Dated:July, 1995

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