

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD.

Original Application No.622 of 1995.

Allahabad this the 08th day of April 2004.

Hon'ble Mr. Justice S.R. Singh, V.C.
Hon'ble Mr. D.R. Tiwari, A.M.

Raggubir Singh
S/o Sri Fakkat Singh
Senior Auditor, A/c No.8310313,
P.A.O., (o.r.s) B.E.G. and C, Rurkee.

.....Applicant.

(By Advocate : Sri P.K. Mishra)

Versus.

1. Union of India
through Controller General
Defence Accounts, West Block 5,
R.K. Puram, New Delhi.
2. Controller of Defence Accounts,
Other Ranks, North, Meerut Cantt,
Meerut/now with the changed designation
C.D.A.C., Controller Defence Accounts (Army),
Meerut Cantt., Meerut.
3. Assistant Controller Defence Accounts,
P.A.O. (ors) B E G Rurkee.

.....Respondents.

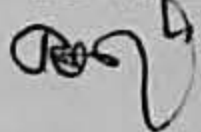
(By Advocate : Sri G.R. Gupta)

O R D E R

(Hon'ble Mr. Justice S.R. Singh, V.C.)

Heard Sri P.K. Mishra learned counsel for the
applicant, Sri V.V. Mishra holding brief of Sri R.C. Joshi
learned counsel for the respondents and perused the pleadings.

2. Application on hand seeks for setting aside the
punishment order dated 14.06.1994 and the orders dated
18.03.1993 and 11.04.1994 passed by respondent No.2 and
for issuance of a direction to the respondents to provide
entire salary payable to the applicant during his suspension
period from 28.01.1988 to 07.02.1989.



3. The applicant was placed under suspension on 28.11.88, Suspension was, however, revoked vide order dated 07.02.1989 without prejudice to the Disciplinary Enquiry. A charge memo was served on the applicant containing following articles of charges:-

"Statement of Articles of Charge framed against Shri Raghbir Singh, Senior Auditor A/C No.8310313."

Article:-I That the said Sh. Raghbir Singh, Senior Auditor while functioning as Auditor in ledger group XXI (Task 224) in the PAO (Ors) BEG & C Roorkee during QE 8/88 audited and passed two (2) FS cases in respect of J.C.86389 Ex. Sub. Sukhvinder Singh of G.E Vishakhapatnam and 77757 Ex. Sub-B.S. Pundir of DIWS Mussorie and thereby allowed fraudulent overpayment of Rs.10821/- and Rs.4000/- respectively committing lapses deliberately/intentionally to give undue benefits to pensioners and cheated the Govt. to the tune of Rs.14821/- adopting modus operandi as detailed against each case in the Annexure-II. The said Shri Raghbir Singh thus violated the provisions of Rule 3 (I) (i) (ii) (iii) of CCS (Conduct) Rules 1964.

Article :II- That during the aforesaid period and while functioning in the said office the said Shri Raghbir Singh Sr. Auditor failed to get the IRLA (in r/o JC-77757) reviewed upto date by Review Group before it's finalisation in violation of instruction issued vide CDA (Ors) North, Meerut Cantt No.AT/1/0226 dated 28.08.85 as the same reviewed upto 2/87 only. Shri Raghbir Singh, Sr. Auditor thus violated the provisions of Rule 3 (I) (i) (ii) (iii) of CCS (Conduct) Rules 1964.

Article-III That during the aforesaid period and while functioning in the said said office the said Shri Raghbir Singh, Sr. Auditor failed to submit the additional IRLA sheets in the IRLA of the said JCOs to his superiors (AAO) for authentication. He also failed to mark consecutive serial numbers to additional IRLA sheets and not written debit/Credit balance brought forwarded in words as provided in para 222 OM Pt.X. Vol. I, hereby violating the provisions of Rules 3 (I) (i) (ii) (iii) of CCS (Conduct) Rules, 1964".

4. Enquiry Officer in his enquiry report dated 04.09.92 held, on the basis of documentary and oral evidence adduced in the case before him, that all the three charges against the applicant were 'not proved'. It appears that without issuance of show cause notice, the Disciplinary Authority by its order dated 18.03.1993 imposed upon the applicant the "penalty of reduction of his pay to the stage of Rs.1800/- from the present stage of Rs.1850/- in the time scale of pay of Rs.1400-40-1800-50-2300-EB-60-2600 for a period of

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one year with effect from the date of issue of this order" and further that the applicant will not earn increments of pay during the period of such reduction and on expiry of such period, the reduction will have the effect of postponing his future increments of pay.

5. A perusal of impugned order passed by Disciplinary Authority would indicate that on perusal of record of disciplinary proceedings, the evidence adduced in the enquiry viz finding of enquiry officer and report dated 23.12.92 of the applicant. Disciplinary Authority partly accepted the findings of the enquiry officer in respect of Article 1 and disagreed with his findings in respect of Articles 2 and 3 for the reasons given in the order. Rule 15 (2) of CCS (CCA) Rules, 1965 clearly provides that the Disciplinary Authority shall forward or cause to be forwarded a copy of the report of the Inquiry, if any, held by the Disciplinary Authority or where the Disciplinary Authority is not the Inquiring Authority, a copy of the report of the Inquiring Authority together with its own tentative reasons for disagreement, if any, with the findings of Inquiring Authority on any article of charge to the Government servant who shall be required to submit, if he so desires, his written representation or submission to the Disciplinary Authority within fifteen days, irrespective of whether the report is favourable or not to the Government Servant. The Disciplinary Enquiry in the instant case has proceeded in utter violation of statutory provisions contained in Sub- Rule (2) Rule 15 of CCA (CCS) Rules, 1965 which in fact embodies the rules of natural justice. The findings of Enquiring Authority on all the charges were in favour of the applicant. It was, therefore, incumbent on the part of the Disciplinary Authority to issue show cause notice together with his tentative reason for disagreement with the finding of enquiry officer on the article of charges calling upon the applicant to submit his written representation

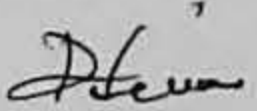
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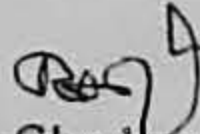
or submission within a stipulated period. The provision contained in Sub-rule (2) of Rule 15 of CCS (CCA) Rules 1965 are mandatory in nature and non compliance of said provision, in our opinion, vitiates the order passed by Disciplinary Authority. The appeal preferred against the order has been dismissed but since the order passed by Disciplinary Authority is void having been passed in breach of natural justice, the appellate order too cannot be sustained.

6. Shri G.R. Gupta, learned counsel for the respondents submits that show cause notice dated 03.05.1993 was issued to the applicant. The submission made by the Sri G.R. Gupta appears to be misconceived in as much as the said show cause notice was given to the applicant in respect of treatment of suspension period as is clear from the order dated 11.04.1994 annexed as Annexure 2 to the O.A. whereby the pay and allowance of the applicant for the period from 05.12.1988 to 13.02.1989 has been restricted to the subsistence allowance already admitted and said period has not treated as spent on duty except for pension purposes.

7. Therefore, the impugned order of punishment is liable to be quashed for the reasons aforestated. The O.A. ^{accordingly} succeeds and is allowed. The impugned orders dated 14.06.1994, 18.03.1993 and 11.04.1994 are set aside. The Disciplinary Authority is, however given liberty to proceed afresh from the stage of receipt of enquiry report.

No costs.


Member-A.


Vice-Chairman.

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