

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
CIRCUIT SITTING
AT NAINITAL

Original Application No. 373 of 1999

Nainital
Kkakadad this the 22nd day of October 2002

Hon'ble Mr.Justice R.R.K. Trivedi, V.C.
Hon'ble Maj Gen K.K. Srivastava, A.M.

Puran Singh, aged about 45 years, Son of Sri Kaka Ram, resident of 26/58, Indra Colony Chukhuwala, Dehra Dun.

Applicant

By Advocate Shri K.C. Sinha

Versus

1. Union of India through Surveyor General of India, Survey of India, Dehradun.
2. Director, Northern Circle, Survey of India, 12-E.C. Road, Post Box No.3, 248001, Dehradun.
3. Superintending Surveyor, Incharge No.2,Drawing Office, Survey of India no.6, Drawing Office, Dehradun.

Respondents

By Advocate Shri R.C. Joshi

O_R_D_E_R (Oral)

By Hon'ble Mr.Justice R.R.K. Trivedi, V.C.

By this O.A. under Section 19 of the Administrative Tribunals Act, 1985 the applicant has challenged the order dated 25.06.1998 passed by Superintending Surveyor awarding punishment of Censure and withholding of next increments of pay for three years without cumulative effect. The aforesaid order was challenged in appeal. The

appeal has been dismissed by order dated 05.03.99.

Aggrieved by the said orders, the applicant has approached this Tribunal.

2. The facts of the case are that the applicant ~~Ram~~ Puran Singh was served with a memo of charge under Rule 16 of C.C.S.(C.C.A.) Rules, 1965 with the allegation that he exhibited lack of devotion to duty and acted in a manner which is unbecoming to Govt.servant and failed to maintain integrity. The memo of charge was served on 05.06.88. The applicant submitted the reply denying the charges and he further requested for a full fledged inquiry of the charges after giving opportunity of hearing to him. This prayer, however, was rejected on the ground that the preliminary inquiry has already been held by the Board of Officers taken from various units/offices and [✓] ~~prima facie~~ case has been established. Learned counsel for the applicant has submitted that as the allegations against the applicant were regarding his integrity and conduct as Govt.servant, he prayed for an opportunity of hearing where he could defend himself in appropriate manner, but this opportunity of defence and hearing has been denied, therefore, orders cannot be sustained. It is submitted that though the appellate authority noticed the claim of the applicant regarding full fledged inquiry into the charges, but appellate authority has not been able to appreciate the claim of the applicant in legal manner and has rejected the same. Counsel for the applicant has placed reliance on the Judgment of [✓] ~~Itan Supreme Court in Case of~~ 'O.K. Bhardwaj

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Shri R.C. Joshi on the other hand has submitted that the inquiry was already conducted by the Board of Officers and the claim about the fresh inquiry was only to delay the proceedings and the claim was not genuine, and it was rightly turned down by the respondents.

3. We have carefully considered the submissions advanced by the counsel for the parties. However, we find force in the submissions made by the learned counsel for the applicant. The Hon'ble Supreme Court in the case of O.K. Bhardwaj (supra) held in para-3 as under:-

"While we agree with the first proposition of the High Court having regard to the rule position which expressly says that "withholding increments of pay with or without cumulative effect" is a minor penalty. We find it not possible to agree with the second proposition. Even in the case of a minor penalty an opportunity has to be given to the delinquent employee to have his say or to file his explanation with respect to the charges against him. Moreover, if the charges are factual and if they are denied by the delinquent employee, an enquiry should also be called for. This is the minimum requirement of the principle of natural justice and the said requirement cannot be dispensed with. "

4. The present case is squarely covered by the observation made by the Hon'ble Supreme Court in the case of O.K. Bhardwaj, and in our opinion the applicant is entitled for the relief. The O.A. is accordingly allowed. The orders -...pg.4/-



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dated 25.06.98(annexure A-1) and 05.03.99
(annexure A-2) are quashed. The respondents
shall proceed with the inquiry from the stage
of ~~mservice~~ service of memo of charge, (which has already
been served on the applicant) and conclude the
inquiry after giving opportunity of hearing to
the applicant, in accordance with law. No order
as to costs.



Member (A)



Vice Chairman

/M.M./