

CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH AT NAINITAL, U.A.

Nainital this the 24th day of April, 2003.

Original Application No. 1097 of 1999.

Hon'ble Maj. Gen. K.K. Srivastava, Member- A.  
Hon'ble Mrs. Meera Chhibber, Member- J.

Dabal Singh S/o Sri Narain Singh, Elect.(S.K),  
AGE/E/M/Sub Div./G.E.Prem Nagar, Distt. Dehradun.  
R/o Vill. Lingwana, Post-Jahari Khal,  
Distt. Pauri Garhwal.

.....Applicant

Counsel for the applicant :- Sri Rajendra Dobhal

V E R S U S

1. Union of India through the Secretary, Mpo Defence,  
New Delhi.
2. Chief Engineer, Bareilly Zone, Sarvatra Bhawan,  
Station Road, Bareilly Cantt.- 24001.
3. Head Quarter Commander Work Engineer No. 1,  
Dehradun Cantt through CWE.

.....Respondents

Council for the respondents :- Sri R.C. Joshi

O R D E R (Oral)

By Hon'ble Maj.Gen. K.K. Srivastava, Member- A.

In this O.A filed under section 19 of the Administrative Tribunals Act, 1985, the applicant has challenged the punishment order dated 25.09.1997 passed by the disciplinary authority awarding punishment of reduction of pay scale by four stages in the scale of pay Rs. 950-20-1150-EB-25-1500 for a period of two years with cumulative effect. The applicant filed an appeal against the order of disciplinary authority which has been rejected by the appellate order dated 07.06.1999. The applicant has prayed for quashing both the punishment as well as appeal orders and a direction to the respondents to acquit

charges levelled against him.

2. The facts, in short, giving rise to this O.A are that the applicant is working as Electrician (SK) under Assistant Garrison Engineer-II (in short A.G.E-I). He was served with a major penalty charge-sheet under rule 14 of CCS (CCA) Rules, 1965. On conclusion of the disciplinary proceedings, the punishment order dated 25.09.1997 was passed by the disciplinary authority (Annexure A-2). The applicant's appeal dated 01.12.1998 was also rejected by the appellate authority vide order dated 07.06.1999 (Annexure- 1) Aggrieved by the said order dated 07.06.1999 the applicant has filed this O.A which has been contested by the respondents.

3. Sri R. Dobhal, learned counsel for the applicant submitted that the respondents have acted in arbitrary and malafid<sup>e</sup> manner. The applicant was not afforded opportunity to defend<sup>h</sup> himself during the enquiry. The enquiry was conducted ex parte and the disciplinary authority, relying on the enquiry report, passed the punishment order.

4. Learned counsel for the applicant further submitted that the impugned orders i.e. punishment order dated 25.09.1997 and appellate order dated 07.06.1999 are non-speaking orders. The disciplinary authority as well as the appellate authority did not apply their mind and thus grave injustice has been done to the applicant.

5. Resisting the claim of the applicant Sri G.R. Gupta, learned counsel for the respondents submitted that the applicant was given sufficient opportunity. He appeared in the enquiry, However, did not sign the daily sheet and, therefore, the grounds taken by the applicant that he was not afforded sufficient opportunity has no substance.

6. We have heard counsel for the parties, considered their submissions and perused records.

7. The applicant has not filed the copy of his representation which <sup>is stated to have been</sup> ~~had~~ filed before the disciplinary authority nor has he filed the copy <sup>in of the appeal</sup> dated 01.12.1998. It is very difficult for us to appreciate the points raised by <sup>also</sup> the applicant. We have/gone through the order dated 07.06.1999 passed by the appellate authority. The order consists of 5 paras. Para 1 to 3 are introductory paras. Para 4 and 5 pertain to the appeal. We would like to <sup>re</sup> produce the same :-

"4. And now whereas, appeal dated 01 Dec.98 addressed to Chief Engineer Bareilly Zone has been received under CWE No.1 Dehradun letter No.C-50/DS/132/E1(Con) dated 17 May 99. The appeal dated 1 Dec. 98 submitted by the said Sri Dabal Singh, Elect (SK) has been examined carefully.

5. An now, therefore, in exercise of the powers vested in me under Govt. of India, M/o Defence letter No. 5(14)/79/D(Lab) dated 16 Aug. 79, being the competent appellate authority, hereby rejected the appeal dated 01 Dec.98 submitted by Sri Dabal Singh, Elect (SK) under Rule 29 of CCS (CC&A) Rules 1965 and further direct that the penalty imposed upon him under CWE No.1 Dehradun order No.C-50/DS/95/E1 (Con) dated 25 Sep.97 shall remain upheld."

8. The perusal of para 4 and 5 leave no doubt in our mind that the appellate authority has not applied his mind in passing the appellate order. It is a non-speaking order and not even single ground has been given by the appellate authority on which the appeal has been rejected. In the facts and circumstances, we are of the considered view that the case be remanded to the appellate authority who should examine the points raised by the applicant in his appeal dated 01.12.1998 and pass reasoned and speaking order.

9. Accordingly, the O.A is partly allowed. The appellate order dated 07.06.1999 is quashed. The matter <sup>h</sup><sub>h</sub><sup>b</sup> remanded to the appellate authority to decide the appeal of the applicant by a reasoned and speaking order within a period of three months from the date of communication of this order.

10. There will be no order as to costs.



Member- J.



Member- A.

/Anand/