

Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH,
ALLAHABAD**

ORIGINAL APPLICATION NO. 1523 OF 2000

ALLAHABAD THIS THE 6TH DAY OF FEBRUARY, 2008

**HON'BLE MR. ASHOK S. KARAMADI, MEMBER-J
HON'BLE MR. SHAILENDRA PANDEY, MEMBER-A**

1. Suresh Kumar (since deceased)
 - 1/1 Smt. Uma Devi, W/o late Suresh Kumar.
 - 1/2 Km. Rashi Arya, D/o late Suresh Kumar.
 - 1/3. Km. Rachna Arya, D/o late Suresh Kumar.
 - 1/4 Km. Sharda Arya, D/o late Suresh Kumar.
 - 1/5 Km. Chitra Arya, D/o late Suresh Kumar.
 - 1/6. Km. Neha Arya, D/o late Suresh Kumar.
 - 1/7 Km. Bhawana Arya, D/o late Suresh Kumar.
- All R/o 121 Shiv Kuti Chilla, Allahabad.
.....Applicants

(By Advocate S/Sri P.K. Kashyap, C.P. Gupta & R.C. Shukla.

V E R S U S

1. Union of India through G.M. N.R. Baroda House, New Delhi.
2. D.R.M., N.R., Allahabad.
3. The Divisional Commercial, N.R., Allahabad.

.....Respondents

(By Advocate: Sri A. Tripathi)

O R D E R


BY ASHOK S. KARAMADI, MEMBER-J

This O.A. is filed by the original applicant, who has now died, challenging the orders passed on 7.11.2007, 29.6.1998 and 5.11.1998 passed by respondents.




2. The case of the applicant is that the respondents have initiated the departmental proceedings against the applicant appointing the Enquiry Officer to enquire into the charges levelled against him. The Enquiry Officer after giving ~~due~~ opportunity of hearing to the applicant concluded the enquiry and found that the charges levelled against the applicant in the chargesheet are proved and submitted its report to the disciplinary authority. Based on the findings of the enquiry report, the disciplinary authority has passed the order of removal from service. Being aggrieved, the applicant preferred an appeal, the said appeal was dismissed by the appellate authority vide order dated 29.6.1998 and thereafter Revision Petition was filed before the Revisional Authority, who by means of the order dated 5.11.1998 modified the punishment awarded to the applicant to that of compulsory retirement while observing that the "Revision is liable for rejection on grounds of time limitation, however, the long service of Sri Suresh Kumar in Railway, punishment is reduced to compulsory retirement." Being aggrieved by the same, this O.A. has been filed.

3. On notice, the respondents have filed counter Affidavit stating therein that the enquiry conducted is just, proper and further the Revisional Authority had considered the case of the applicant and reduced the punishment of compulsory retirement, therefore,

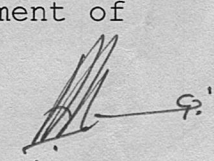


there is no justification in allowing the contention of the applicant that the orders passed by the respondents are illegal and sought for dismissal of the O.A.

4. We have heard the learned counsels for the applicant and respondents. The learned counsel for the applicant states that there is no reason to the effect that the Enquiry Officer has given the findings in absence of material available on record and further it is stated that the findings cannot be accepted in absence of the materials and the order passed on the same by the disciplinary authority is also severe in nature, it is disproportionate to the charge framed and further the order of modification is not just and proper, no opportunity was given to the applicant in the proceedings to ascertain the truth of the official or otherwise. We have perused the order passed by the disciplinary authority and the findings recorded were based on the material. Having regard to the statement made by the respondents in the Counter Affidavit, it is clear that the enquiry was conducted as per the extant rules on the subject in which the applicant had participated and then it is presumed that the applicant has got produced all the materials in the enquiry proceedings against the charged levelled against him. The contention of the applicant's counsel is that the findings recorded in the proceedings are against the principles of natural



justice. This contention of the applicant is not accepted in view of the fact that the applicant had participated in the enquiry and submitted his defence. It is ^{an} settled principles of law that normally the Court should not interfere in the matter of disciplinary proceedings as well as to the quantum of punishment awarded by the disciplinary authority, unless the same vitiates in law or the findings ^{are} recorded without any basis for the same and in absence of the evidence on record. In the instant case, after giving him full opportunity based on the evidence on record, the findings are given. In view of these reasons, it cannot be said that the proceedings are vitiated for want of procedure or application of rules concerned. Having regard to the same, we do not find any merits in the contentions of the applicant, since the appellate authority has also considered the case of the applicant. In absence of plea of violation of principles of natural justice, which has resulted in prejudice to the interest of the applicant, the findings recorded cannot be interfered ^{with}. However, the Revisional authority has modified the punishment order in the revision having regard to the same; we do not find any justification to interfere in the orders passed by the respondents as the scope of judicial review in the matter of quantum of punishment is not justifiable ~~one~~. The learned counsel for the applicant submits that the Enquiry Officer has not recorded any finding to the effect of entrustment of



the amount. To this contention, the Enquiry officer and the order passed thereon, it is stated that it is on the basis of evidence on record and as such we do not find any merit~~s~~ in the contentions of the applicant's counsel. It is accordingly rejected.

5. In view of the above, we do not find any ground to interfere in the O.A., which is accordingly dismissed. No costs.



MEMBER-A

GIRISH/-



MEMBER-J