

Reserved

**CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD**

THIS THE 28TH DAY OF November, 2011

**HON'BLE MR. JUSTICE S. C. SHARMA, MEMBER (J)
HON'BLE MR. D. C. LAKHA, MEMBER (A)**

ORIGINAL APPLICATION NO. 1211 OF 2003
(U/S 19, Administrative Tribunal Act, 1985)

Dhanmesh s/o Sri Phool Singh, R/o Village Pathani, Post Chikana, District: Saharanpur.

.....Applicant

V E R S U S

1. Union of India, through Director General of Security, Aviation Research Center, Headquarter, Directorate General of Security, (Cabinet Secretariat), Block-V (East), R. K. Puram, New Delhi-110066.
2. Deputy Director (Administration) Aviation Research Center, Headquarter, Directorate General of Security, (Cabinet Secretariat) Block-V (East), R. K. Puram, New Delhi-110066.
3. Assistant Director (Administration) Aviation Research Center, Headquarter, Directorate General of Security, (Cabinet Secretariat) Block-V (East), R. K. Puram, New Delhi-110066.
4. Assistant Director (Administration) Aviation Research Center, Sarsawa, District Saharanpur

.....Respondents

Present for the Applicant: Sri Ajay Rajendra

Present for the Respondents: Sri R. K. Srivastava

O R D E R

Instant O.A. has been instituted for the following relief/s:-

"(i). to issue a suitable direction quashing the impugned order dated 1-4-2002 passed by the respondent no.3 and the order dated 10-9-2002 passed by the

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respondent no.2 (annexure no.1 and 2) to the compilation no.1.

(ii). to direct the respondent no.3 to give all consequential benefits to the applicant as if the above noted impugned orders have never been passed.

(iii). to issue any other direction to the respondents to which this Hon'ble Court may deem fit and proper under the circumstances of the case.

(iv). Award cost to the applicant."

2. The pleadings of the parties may be summarized as follows:-

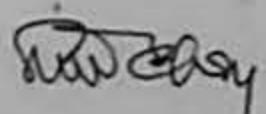
It has been alleged by the applicant that he was appointed on 13th March, 1985 as Mali in Aviation Research Center Sarsawa, district Saharanpur and belongs to backward class and not highly educated. In the capacity of Mali he discharged the duties of Mali and as such applicant is entitled for Medical facilities for his family. In the month of May, 1997 the father of the applicant remained admitted in the civil hospital, Saharanpur w.e.f. 22nd May, 1997 to 31st May, 1997 and he spent money in the treatment of his father and bill was submitted for reimbursement for medical expenses to Sri D. J. P. Samuel the then Assistant Director

S. M. Chahal

(Administration) Aviation Research Center, Sarsawa, despite several request the amount was not paid to him hence applicant made a complaint to higher authorities and due to this reason D.J.P. Samual had malice from the applicant and a charge sheet was served on the applicant on 21st July, 1998 and the order of punishment was passed after the result of inquiry by the disciplinary authority and in that connection he filed O.A. No.159 of 1999 before C.A.T., Allahabad Bench, but afterwards the second round of harassment of the applicant was started. On 20th February, 1999 applicant after returning from Allahabad, submitted his joining report at A.R.C. Sarsawa to his superior officer along-with the form of Earned Leave which was recorded in diary of Estate Cell at Sl. No. 17 and signed the attendance register, but D.J.P. Samual did not permitted the applicant to sign the attendance register and he was threatened with the consequences in that connection telegram was sent to the higher authorities. A letter was issued by D.J.P. Samuel on 05th April, 1999 in order to permit one Sri R. K. Jain to share along-with him in a Type-IV residential quarter

S. K. Jain

which was in exclusive possession of the applicant. The single room quarter cannot be shared with another employee along-with his family, but it was wrongly ordered and subsequently it was reported that the applicant sublet the accommodation to Sri R. K. Jain and that no article of the applicant was found in the said quarter. It has also been alleged that the applicant ^{or himself} ~~was~~ absented from duty w.e.f. 02nd February, 1999 without any information unauthorizedly and $\frac{1}{2}$ day casual leave was submitted by the applicant and under preplanned conspiracy the respondents issued a memo of charge sheet on 27th February, 1999 containing seven charges that his absence from duty after expiry of leave, leaving station without prior intimation and not furnishing address, disobedience of official order, misbehavior with senior officers, threatening Govt. staff while on duty, sublet Govt. accommodation. The applicant submitted reply of the charge sheet that the inquiry proceedings were conducted in English language whereas, the applicant was not aware about the English. The documents relied



by the respondents were not supplied to the applicant during the inquiry Sri J. K. Jain, S.F.O. (Admn.), ARC, Sarsawa was appointed as Inquiry Officer to enquire into the charges, but he was prejudiced with the applicant and, thereafter, the punishment order was also passed by Sri J. K. Jain which is against the principle of natural justice and allegation made against the applicant were false. The Inquiry Officer J. K. Jain was changed and, thereafter, A. K. Garg was appointed as Inquiry Officer vide letter dated 15th March, 2000 and another presenting officer namely R. K. Goswami was appointed and a request was made by the applicant in order to permit him to engage an Advocate as defence helper, but he was not permitted and the witness~~s~~ were not permitted to be cross examined. That certain documents were given to the inquiry officer, but he did not return~~ed~~ the same and A. K. Garg, Inquiry Officer was also changed and, thereafter, Sri A. R. Bhardwaj was appointed new Inquiry Officer, but the Inquiry Officer Sri Bhardwaj was also prejudicial to the applicant and Sri Bhardwaj threatened him with consequences. That the

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Inquiry Officer did not consider all the aspects of the case properly and he was prejudiced and he was not changed inspite of the request of the applicant and the punishment was also illegal and disproportionate to the charges framed against the applicant, appeal was illegally rejected by the respondents, hence the O.A.

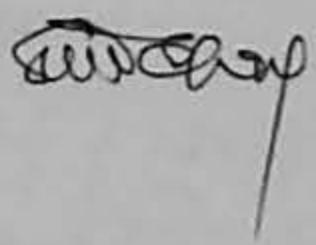
4. Respondents contested the case and filed Counter Reply and denied from the allegations made in the O.A.. It has further been alleged that the inquiry was conducted against the applicant of serious allegation and he committed gross misconduct and on the objection of the applicant twice the inquiry officers were changed and third inquiry officer Sri A.R. Bhardwaj was appointed as inquiry officer and he conducted the enquiry in a proper manner and allegation made against Sri A.R. Bhardwaj of biasness is not tenable. That the applicant was a ^{himself} ~~was~~ absented from duty unauthorizedly without submitting leave application. Moreover, the medical claim was submitted by the applicant incurred in the treatment of his father and it

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has been alleged that his father was admitted in Civil Hospital namely S.B.D. Hospital, Saharanpur from 22nd May, 1997 to 31st May, 1997, but the fact is that the father of the applicant remained admitted in a private Hospital namely Gargi Hospital from 20th May, 1997 to 31st May, 1997. That the respondents have got the right to enquire about the authenticity of the medical bills and on inquiry this fact was revealed and certificate was issued by Gargi Hospital to this effect, annexure-CA-5. In completing formalities time was consumed in clearing the reimbursement of bills and he made a complaint and a memo was served to the applicant in that connection. That regarding punishment for earlier lapses O.A. No. 159 of 1999 was filed before this Tribunal. That it has also been alleged that an application for grant of one day Casual Leave for 02nd February, 1999 was submitted in the office and one application for $\frac{1}{2}$ day Casual Leave was also submitted which were sanctioned. That the permission was granted to the applicant on application dated 20th January, 1999 and order was passed in that connection on

S.M. Chawla

05th April 1999. It has also been stated that in the premises of A.R.C., Sarsawa there are only 47 quarters of Type-I and this Type-I consists of two rooms accommodation and as per provisions of Directorate of Estate rules the said quarter can be allowed to be shared by two Govt. servant. It has wrongly been alleged by the applicant that Type-I quarter consists of only one room, but the fact is that Type-I quarter consists of two rooms and to be shared by two employees due to paucity of accommodation, it is difficult to share one room by two govt. servant, hence on the face of it the contention of the applicant is unjustified. An application was submitted on 20th January, 1999 for sharing the accommodation by two persons and the permission was granted on 04th February, 1999. Sri R.K. Jain was sharing accommodation with applicant, but on verification it was found that applicant was not living in that accommodation and no belongings of the applicant was found in the accommodation and it was evident and proved that applicant sublet the official quarter to Mr. R. K. Jain and it is violation of rules. It is not essential as per rules to supply the

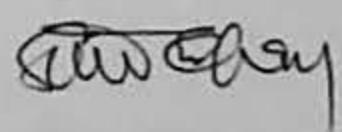
A handwritten signature in black ink, appearing to read "S. K. Jain".

copies of the documents relied ^{on} by the respondents in the charge sheet, but after receipt of the reply of the applicant he was permitted to inspect the documents and only permission can be given for inspection of the documents and full opportunity was provided to the applicant to inspect the documents. In case applicant was not permitted to even inspect the documents then he was at liberty to raise objection, but at no point of time such objection was raised by the applicant that opportunity was not provided to the applicant to engage defence assistance, but the applicant failed to furnish the name of any defence assistance rather he made a request to permit him in order to engage an Advocate as defence assistance and it is not permissible in law. It is a fact that the proceedings of inquiry were conducted in English, but firstly the applicant knew English he is High-school pass he put his signature in English. Moreover, he appeared in the departmental promotional examination as L.D.C. and in that examination there a paper of General English, hence the applicant can not state that he is ignorant about the English

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moreover the Hindi version of the inquiry proceedings were readover and explained to the applicant. The Inquiry Officers were changed twice on the contention of the applicant. Sri J. K> Jain was the Inquiry Officer initially and he was changed on the request of the applicant and later on Mr. Garg was appointed as Inquiry Officer and thereafter again on the objection Sri A. R. Bhardwaj was appointed as Inquiry Officer and conducted inquiry as per rules. That the inquiry was properly conducted and there was allegation of gross misconduct against the applicant and the charge has been proved in the inquiry and the inquiry officer submitted the report and Disciplinary Authority awarded the punishment as per rules and it cannot be said that the punishment is disproportionate to the charges. That the O.A. lacks merits and liable to be dismissed.

4. Rejoinder Affidavit was also filed on behalf of the applicant after Counter Reply of the applicant and applicant denied from the allegations alleged in the Counter Affidavit.



5. We have heard Sri Krishna Murari holding brief of Sri Ajay Rajendra, Advocate for the applicant and Sri R. K. Srivastava, Advocate for the respondents and perused the entire facts of the case.

6. It has been alleged by the applicant that Sri J.K. Jain and Sri D.J.P. Samuel were prejudiced from the applicant because he submitted a bill for medical reimbursement for the expenses incurred by him in the treatment of his father and there had been inordinate delay in granting the medical reimbursement and hence he made a complaint to the Director Aviation Research Center, Headquarter, New Delhi and due to this reason D.J.P. Samuel, Assistant Director (Admn.) A.R.C. Sarsawa, Saharanpur was prejudiced and that is why a prejudicial charge sheet was submitted against the applicant regarding false allegations. Whereas, it has been alleged by the respondents that in completing formalities the medical reimbursement was delayed and for that applicant made complaint. It has also been alleged by the respondents that according to the applicant his

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father remained admitted in the Civil Hospital, Sarahanpur w.e.f.22nd May, 1997 to 31st May, 1997, but when the authenticity of the bill was investigated then it was found that the father of the applicant remained admitted in the Gargi Hospital and Heart Center, Sarahanpur from 20th May, 1997 to 31st May, 1997 Annexure-CA-5 is the Certificate issued by the Gargi Hospital in this connection. It is a fact that the father's name of the applicant is Phool Singh and Sri Phool Singh remained hospitalized in the Gargi Hospital and not in the Civil Hospital. We are not suppose to adjudicate on the point that whether the bill submitted by the applicant for reimbursement was justified or not because it has been alleged that D.J.P. Samuel was prejudiced with the applicant as the applicant made complaint against him for delaying in medical reimbursement of the applicant, it may be the fact, but otherwise the contention of the applicant appears unjustified that his father remained hospitalized in Civil Hospital and the fact is that the father of the applicant remained admitted in Gargi Hospital, Saharanpur. It has been argued by the learned counsel for

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the applicant that the inquiry was not conducted as per rules and the copy of the documents were not supplied to the applicant relied by the respondents in the charge sheet. It has been alleged by learned counsel for the respondents that along-with charge-sheet it was not mandatory to supply the copy of the documents relied by the respondents during the inquiry, however the applicant was permitted to inspect the documents. It has also been alleged by the respondents that during the inquiry proceedings no objection was raised on behalf of the applicant that documents relied by the respondents has not been supplied to the applicant, it is a fact that during the inquiry proceedings no objection was raised by the applicant for non supply of the copies of the documents, however, the applicant is entitled to inspect the documents relied during the inquiry.

7. It has also been alleged by the learned counsel for the applicant that the entire proceedings were conducted in English whereas, the applicant was not aware about the English and direction was given to the respondents to

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conduct the inquiry in the Hindi, but same was not conducted in the Hindi. Learned counsel for the respondents argued that it is a fact that the inquiry proceeding was conducted in English, but firstly it will not be justified to state that the applicant was not aware about the English, he was not illiterate person he had passed High-school examination, he use to put his signature in English and moreover, the applicant appeared in L.D.C.E. examination for the post of L.D.C. and in that examination General English is one of the subject and the applicant opted that subject hence this contention of the applicant is not justified that he was not aware of the English, it can be possible that one knew a little of the English, but it cannot be inferred that the applicant was so well conversant with English that he could understand the proceedings in English. It has also been argued by the learned counsel for the respondents that during the inquiry proceedings the applicant was apprised about the proceedings in Hindi explaining all the developments of the inquiry. It is also a fact that applicant submitted reply during the inquiry in English.

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and when there is specific assertion of the respondents that during the inquiry the Inquiry Officer apprised about the proceedings in Hindi then there appears no reason to disbelieve this contention of the respondents and there is very limited scope available to Courts/Tribunal to interfere in the inquiry proceedings, the Court are not supposed to sit in the inquiry proceedings like Appellate Authority and it has been alleged by the respondents that the inquiry proceedings were explained to the applicant in Hindi and there appears no reason to disbelieve this contention of the respondents.

8. It has also been argued by the learned counsel for the applicant- that the Inquiry Officer who concluded the inquiry was prejudiced from the applicant, but nothing has been shown that Sri Bhardwaj was also prejudiced from the applicant and twice earlier Inquiry Officer were changed on the objection of the applicant, earlier Sri J. K. Jain was the Inquiry Officer, but vide letter dated 09th August, 1999 applicant requested that he has no trust to get justice from the Inquiry Officer and he requested to

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order for connecting the inquiry from higher officer of other station so that he may able to get justice and on this contention of the applicant the Inquiry Officer was changed. It is a different matter that subsequently Sri J. K. Jain happened to be the disciplinary authority and it has also been argued by the learned counsel for the applicant that the previous Inquiry Officer cannot act as a disciplinary authority and the punishment order was passed by Sri J. K. Jain is unjustified and is against the principle of natural justice. As is evident from the record that the memo of charge was submitted by Sri D.J.P. Samuel and there is nothing to show that memo of charge was framed against the applicant by Mr. J.K. Jain. As the memo was submitted by Sri D.J.P. Samuel hence superior authorities considered that inquiry must be conducted in the matter and the respondents appointed Sri J.K. Jain as Inquiry Officer, it has not been alleged at that time that Sri J.K. Jain was the disciplinary authority. Allegations were made against Sri J.K. Jain that justice will not be done by Sri J. K. Jain, hence he was changed and it has not

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been alleged by the applicant that J.K. Jain was not competent to proceed with the inquiry as Inquiry and illegally he acted as also the disciplinary authority. Under these circumstances only inference can be drawn that it was the subsequent development that Sri J.K. Jain happened to be the disciplinary authority and earlier Sri J.K. Jain was removed to act as Inquiry officer on the allegations of the applicant of prejudiced attitude and later on he happened to be disciplinary authority also. Under these circumstances the order of punishment will not be vitiated on the ground that earlier the disciplinary authority happened to be the Inquiry Officer and moreover, nothing was done by Sri J. K. Jain during the inquiry except calling explanation from the applicant. Subsequently Sri A. K. Garg was appointed as Inquiry Officer, but Sri A. K. Garg was also changed because the allegations was made of prejudice against him also and thereafter, Sri A. R. Bhardwaj was appointed as third Inquiry officer and even allegations have been made against Sri A. R. Bhardwaj of prejudice by the applicant, but there appears no substances in

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the contention of the applicant and nothing has been alleged that what was the prejudice of Sri A.R. Bhardwaj from the applicant and whosoever will be appointed as Inquiry Officer applicant shall made allegation against him so that the inquiry proceeding may not be proceeded against him. The attitude of the applicant during the inquiry was of indifferent nature and he was not cooperating in the inquiry, rather he was trying to adopt tact in order to frustrate the inquiry proceedings. Hence in our opinion the inquiry conducted by the Inquiry Officer was perfectly in accordance with law and rules and the allegations of the applicant against the third Inquiry Officer Sri A. R. Bhardwaj were most unjustified and unfortunate.

9. It has also been argued by the learned counsel for the applicant that he was not provided any defence assistance. It is evident from perusal of the record that the opportunity was provided to the applicant to select his defence assistant amongst the employees, but applicant failed to select any employee to work as his defence assistant, rather it has been

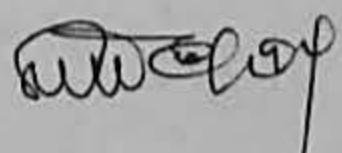
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alleged by the applicant that as no employee was prepared sto assist him, hence he wants a lawyer to defend him. In para 4.88 it has been alleged by the applicant that "...The applicant objected the proceeding and stated that he is unable to defend himself without a lawyer." Hence it cannot be said that the respondents declined to appoint a defence assistant according to the choice of the applicant, rather the applicant pressed that a lawyer be permitted to defend him, and in the departmental proceeding according to rules there is no provision of providing lawyer in order to defend a delinquent employee. That applicant himself cross-examined the witness and hence it cannot be said that the applicant was not provided the opportunity to engage the defence assistant. It will not be justified to scrutinize the charges framed against the applicant because in view of several judgments of the Hon'ble Apex Court and Hon'ble High Courts the Courts/Tribunal cannot sit as an Appellate Authority over the order of the Inquiry Officer/Disciplinary Authority and the jurisdiction of the Tribunal in interfering in the inquiry proceeding is very limited one and

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we have only to ascertain that whether there had been any procedural lapse or proper opportunity of defence was not provided to the applicant or not and that whether the Inquiry Officer has been changed or not inspite of the objection of the applicant/employee, but in the present case it is not so and we will not be able to state that the report of the inquiry was perverse or against evidence. Rather there was sufficient evidence to prove the charges against the applicant.

10. One of the charges framed against the applicant is that in the premises of the A.R.C. Sarsawa there is paucity of Type-I quarters and there are only 47 quarters in the premises and each quarter consisting of two rooms accommodation. There is also provision of Directorate of Estate rules that a quarter can be allotted to two persons on sharing basis. And in the present case also an application was submitted by the applicant on 20th January, 1999 for permission for sharing the accommodation of the quarter allotted to the applicant with R. K. Jain. The applicant was residing in the



accommodation of two quarter and with the consent of the applicant Sri R. K. Jain was also permitted to share the accommodation i.e. one room each. It has wrongly been alleged by the applicant that Type-I quarter consist only one room and on the face of it the contention of the applicant appears unjustified and untenable and it appears that the respondents cannot be so ignorant from the fact and they permitted two persons along-with family to share in one quarter and it means that there were two rooms in Type-I quarter. Annexure-CA-10 is the copy of the application submitted by Sri R. K. Jain to the Assistant Director, A.R.C., Sarsawa requesting therein to permit him to share the Govt. accommodation Type-I Quarter No.47 with Sri Dhanmesh, Mali, and his family will also stay with him and there is endorsement of Dhanmesh Mali (applicant) available in this application to this effect that he has no objection in sharing Govt. Quarter No. 47 with Sri R. K. Jain and his family and there is no financial transaction involved in it. The allegation against the applicant is that Sri R. K. Jain was permitted to share the accommodation

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with him, but the fact is that in the said Govt. quarter applicant was not living and only Sri R. K. Jain was living and it was against rules. A finding has been recorded on this point and it was found that no clothing or belonging of the applicant was found in the Govt. accommodation and the inference was drawn that only Sri R. K. Jain was found in the Govt. accommodation hence there is no reason to disturb this finding and it cannot be said that it is perverse. That there are other allegations against the applicant that he illegally absented him from the office without leave. It has been alleged by the applicant that on 01st February, 1999 he took $\frac{1}{2}$ day Casual Leave with station leave permission from his superior authority, which was allowed to him and a letter was sent by the applicant to the Assistant Director (Admn) A.R.C., Sarsawa on 02nd February, 1999 for extending five days more leave. On 02nd February, 1999 a report was submitted by Sri K. Wangdi In-charge officer to the Assistant Director, A.R.C. that applicant taken only $\frac{1}{2}$ Casual Leave and another employee namely Sri Ram

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Kher Mali was also absent, but inquiry was not initiated against Sri Ram Kher Mali regarding his absence. On 08th February, 1999 applicant sent a letter to the Assistant Director (Admn.) A.R.C., Sarsawa requesting therein for 10 days leave to approach the Hon'ble High Court to consult his Advocate and after due preparation filed an O.A. on 16th February, 1999 challenging the order dated 22nd January, 1999 and in this manner applicant alleged that he was validly on leave. On 20th February, 1999 the applicant after returning from Allahabad, submitted his joining report at A.R.C., Sarsawa to his superior officer namely Sri K. Wangdi along-with the form of Earned Leave. That the leave was extended by the applicant and intimation was given by way of telegram on dated 17th February, 1999. Under these circumstances it is evident that on 01st February, 1999 applicant applied for $\frac{1}{2}$ day Casual Leave by submitting an application and it was signed by him and, thereafter, applicant reported for duty on 20th February, 1999. It has been alleged by the respondents that applicant was absented from 02nd February,

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1999 to 20th February, 1999 unauthorizedly and it was misconduct. Respondents alleged that the application was submitted by the applicant for one day Casual Leave on 02nd February, 1999 and one day $\frac{1}{2}$ day C/off for 03rd February, 1999 and the same was granted and the application of Sri R.K. Jain was also attached with Annexure-CA-8 and thereafter, applicant submitted his joining at 09:00A.M. whereas, the working hour of the department commenced at 07:00A.M. and the applicant remained absent for this period. That Inquiry Officer enquired into the matter and it was found that the applicant was absent without sanction of leave, and we are of the opinion that the applicant absented himself w.e.f.01st February, 1999 to 20th February, 1999 and no proof has been filed by the applicant that he submitted these applications and absence without prior leave is also a serious lapse and misconduct moreover, it is also a fact that applicant proceeded to Allahabad in order to contact his Advocate for preparation of the O.A. on 22nd January, 1999 and under these circumstances the applicant was aware that he

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remained absent during this period and he submitted an application seeking $\frac{1}{2}$ day leave and the applicant was not justified for applying $\frac{1}{2}$ day Casual leave. There are also allegations against the applicant of misbehavior with his superior. As is evident from the inquiry report as well as from the impugned order dated 01st April, 2002 that applicant was found guilty of the charges under article 1,2,3 and 7 and the applicant was not found guilty of article 5 and 6 and it has been alleged that these charges were partially proved and it is evident and established that the charges against the applicant have been proved, however, against the applicant the charge No.IV not proved and the Charge No.IV is relating to misbehavior with senior officer and rest of the charges stand proved and he absented from duty after expiry of leave, station leave without prior intimation and not furnishing leave address, disobedience of official orders, Threatening Govt. Staff while on duty thereby hindering from performing their duty without fear, subletting Govt. accommodation. We have stated above that the

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charges have been proved regarding absence from duty after expiry of leave and no prior permission obtained in order to leave station and a Govt. servant cannot leave headquarters without prior permission. Under these circumstances the allegations against the applicant were of serious nature and the charges have been proved against the applicant and in this O.A. we cannot overlook the report of the Inquiry Officer as well as order of disciplinary authority and there is no procedural irregularity pointed out by the applicant's Advocate.

11. It has also been argued by the learned counsel for the applicant that the punishment awarded by the disciplinary authority against the applicant is disproportionate to the charges framed against the applicant. We have perused the impugned order of punishment dated 01st April, 2002 and from perusal of the impugned order it is evident that the disciplinary authority awarded the punishment of reduction of pay by two stages from Rs.3,200 to Rs.3,080/- in the time scale of Rs.2,550-55-2,660-60-3,200/-

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for a period of 5 years (five years) w.e.f.01st April, 2002. It was further directed that Sri Dhanmesh, Mali will not earn increments of pay during the period of reduction and that on the expiry of this period the reduction will have the effect of postponing his future increment of pay. Considering the gravity of charges framed against the applicant it cannot be said that the punishment awarded against the applicant is disproportionate to the charges framed against him vide punishment order. Applicant has been reduced in pay by two stages for a period of five years and further ordered that the applicant will not earn increments of pay during the period of reduction and that on the expiry of this period the reduction will have the effect of postponing his future increment of pay, if any. Hence it cannot be said that the applicant will not earn any increment after expiry of five years, hence we disagree with the arguments of the learned counsel for the applicant.

12. For the reasons mentioned above we are of the opinion that the applicant is guilty of

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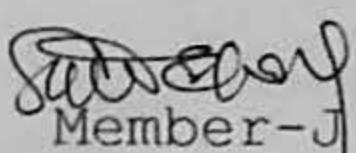
gross misconduct ~~for~~^{by} remaining absent without leave and without seeking prior permission before leaving the Headquarters, he sublet the Govt. accommodation to Sri R.K. Jain and earlier also applicant was found absent without leave and without seeking prior permission, there appears no justification to interfere with the finding of fact recorded by Inquiry Officer and Disciplinary Authority and it cannot be said that the punishment awarded by the respondents is disproportionate to the charges framed against the applicant and it can also not be said that the disciplinary authority was not competent to award punishment as he acted earlier as Inquiry Officer because it was the subsequent development that Sri J. K. Jain happens to be the Inquiry Officer earlier, and at the time of initiation of inquiry Sri J.K. Jain was not the disciplinary authority and he was appointed as Inquiry Officer, but allegations were made against Sri J.K. Jain, hence he was removed to act as Inquiry Officer and then Sri A. K. Garg was appointed as Inquiry Officer, but subsequently he was also removed on the objection of the applicant and it was the

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third Inquiry Officer Sri A.R. Bhardwaj who conducted the inquiry. There is no justification to quash the order of punishment, O.A. lacks merits and liable to be dismissed.

13. O.A. is dismissed. No order as to costs.


Member-A


Member-J

/Dev/