

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

Order dt. 21.3.05

Parties are absent on call. No steps have been taken by the applicant to file rejoinder, even after availing sufficient opportunity. It is presumed that he has no rejoinder to file, pleadings are therefore deemed to be completed.

List the matter for final hearing after showing it in Ready List.

21/3/05

REGISTRAR

For hearing.

22/3/05  
 Bench

For hearing.

13/4/05  
 Bench

Order dated 15.4.05

None appears for the applicant nor the applicant is present in person when called. Nor there was any formal request for adjournment of the matter. However Mr. R.C. Rath, Ld. Standing Counsel for the Respondents was present and with his aid and assistance, we have perused the records.

The applicant has come with second ground of litigation in this O.A. Earlier he had ventilated his grievances by filing O.A. 12/04 regarding the order of punishment passed against him by the disciplinary authority removing him from service. However, he had not exhausted the departmental remedies and therefore, by our order dtd. 27.1.04, we had given liberty to the applicant to prefer a revision petition before the competent authority and had directed the competent Authority that if such a revision petition is filed by the applicant by 15.2.04, then the revisional authority should call for the records and examine the matter on merits and pass appropriate orders within a period of four months from the date of receipt of such petition. In pursuance of the said direction the applicant had filed a revision petition on 4.2.04. The said petition was considered and disposed of by the revisional authority by its order dtd. 8.6.04. By detailed and speaking order, the <sup>revision</sup> disciplinary authority, going into the whole aspect of the case of the applicant as well as the report of the

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enquiry officer and other material connected with the disciplinary proceedings initiated against the applicant, found that the charges have been conclusively proved against the applicant. However, keeping in view not only the interest of the public but also the compelling family circumstances of the petitioner, he modified the order of punishment from that of removing from service to compulsory retirement with effect from the date, from which he was removed from the service earlier with the benefit of compensation pension and gratuity as admissible under the rules. It is against this order the applicant has come in the present application.

We have heard the Ld. Standing Counsel and have perused the records placed before us.

The applicant had assailed the order of the revision authority being unreasonable and as a product of non application of mind on the ground that the revision authority and the enquiry officer had not given reasonable opportunity to the applicant to cross-examine the witnesses. However this allegation has been stands <sup>rebutted</sup> ~~reverted~~ as the report of the enquiry officer <sup>discloses</sup> ~~stated~~ that all the reasonable opportunities of hearing were afforded to the charged official in consonance of the principles of natural justice. The applicant <sup>has not</sup> ~~specifically~~ <sup>not</sup> disclosed as to which witness <sup>he</sup> was not allowed to <sup>be cross</sup> ~~examined~~, as a result of which the allegation of denial of reasonable opportunity appears to be baseless.



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Copy of order dt. 15/4/05  
issued to the counsel  
for both side.  
S.O. 28/4/05  
MV  
28/4/05

However, the point was raised whether there was an act of dereliction of duty on the part of the applicant while he was on duty as trained guard and that fact having been proved beyond doubt and the applicant has also repeatedly accepted that he did commit dereliction of duty, it is not for the Court to hold and not to reappraise evidence against any appeal over the order. The revisionary authority had already modified the order of exchange of punishment that is removal from service by compulsory retirement by virtue of which the applicant is now entitled to pension and other retiral benefits as admissible under the rules.

With this, we see no reason for any interpretation and accordingly this O.A. is disposed of being without merit.

Member (J)

Vice-chairman 15/4