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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Date of order: 20/02/2008

O.A. No.356/2007

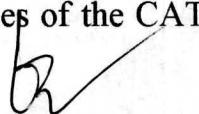
M.Punnaya ... Applicant

versus

Union of India & Ors. ... Respondents

(FOR INSTRUCTIONS)

1. Whether it be referred to the reporters or not?
2. Whether it be circulated to all the Benches of the CAT or not?


(DR.K.B.S.RAJAN)
MEMBER(J)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Date of order: 20/02/2008

PRESENT:

THE HON'BLE DR.K.B.S.RAJAN, MEMBER(J)

In the Matter of

O.A. No.356/2007

M.Punnaya ... Applicant

versus

Union of India & Ors. ... Respondents

(For Full details, see the enclosed cause title)

For Applicant: : M/s.N.R.Rouitray,S.Mishra, Counsel.

For Respondents: M/s.B.K.Mohapatra,Counsel.

O R D E R

Per DR.K.B.S.RAJAN, MEMBER(J):

The applicant was issued with a charge sheet for a minor penalty and on his representation and after considering the same, the disciplinary authority, vide Annx A-5 order dated 16-01-2007 imposed penalty of withholding of 9 P/Pass for the year 2007 and 12 sets of P.T.O. For the years 2007 – 2009. The appellate authority



reduced the same to 6 sets of privileged passes for 2007 and 2008, vide order dated 22-06-2007 (Annex A-8). Challenge is against the above. Grounds of attack include non application of mind, personal bias and discrimination, inasmuch as when complaints were against two, it was only the applicant who was proceeded against.

2. Respondents have contested the OA. According to them, there is absolutely no legal lacuna in the decision making process and the penalty awarded is fully justified and in fact the Appellate authority had taken a lenient view. Rejoinder to the counter has also been filed.

3. Counsel for the applicant argued that the genesis of the entire proceedings is Annexure R/1 letter dated 26-07-2006 from the JE who had lodged a complaint about habitual absence from the spot and rude behaviour of two individuals, i.e. the applicant and one Shri Bali. However, Vide Annexure A/1 series letter dated 7-8-2006 the other individual had been called and warned



verbally and action was initiated against the applicant only. This is illegal, claims the counsel for the applicant.

4. Counsel for the respondents justified the action and highlighted as to how the penalty has been reduced by the appellate authority, taking lenient view. He has also referred to the decision by the Apex Court in the case reported in 2007 SCC (L & S) 68 on proportionality of penalty.

5. Arguments were heard and documents perused. First, as regards alleged singling out of the applicant. Shri Bali was one who was also named in Annexure R-1 series initial complaint by J.E. However, vide order dated 7-8-2006, the higher authority had stated that in so far as the applicant is concerned, the S.S.E had stated, "*In this connection, I would like to inform you that Sri M. Ponnaiah Fitter Gr. I is very rough in manner towards his Supervisors and for this reason he was shifted from repair line to Coaching yard.*" Thus, action for minor penalty was initiated against the applicant while the other one was warned verbally. The

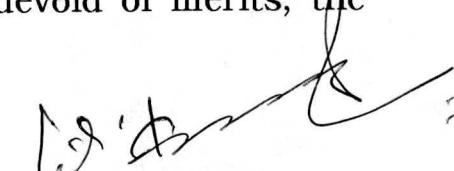


documents clearly show that the two individuals in so far as their alleged misconduct is concerned, on different planes. They cannot be held to be in the same pedestal. As such, no discrimination is shown against the applicant.

6. As regards the decision making process, there is no legal lacuna and all the formalities have been followed.

7. Penalty is also reasonable and not shockingly disproportionate.

8. In view of the above, there is no scope for judicial interference. The OA being devoid of merits, the same is dismissed. No cost.



(DR.K.B.S.RAJAN)
MEMBER(J)