

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

No. M.A. 47 of 1997
O.A. 526/1996

Present : Hon'ble Mr. D. Purkayastha, Judicial Member
Hon'ble Mr. G.S. Maingi, Administrative Member

SMT. S. UMA MAHESWARI

VS.

UNION OF INDIA & ORS.

For the applicant : Mr. P.C. Maity, Counsel
For the respondents : Mr. T.K. Biswas, counsel

Heard on : 18.1.2000

Order on : 18.1.2000

ORDER

D. Purkayastha, J.M.

Heard 1st. counsels for both sides. Both the M.A. and the O.A. are taken up for hearing. The applicant, Smt. S. Uma Maheswari who is working as a junior Clerk under the respondents, has challenged the impugned order of chargesheet dated 22.9.94 (Annexure A-2) and the impugned order of punishment dated 12.4.1996 (Annexure A-9) issued against him on the grounds stated in the applications and prayed for appropriate relief.

2. According to the applicant, the respondents issued chargesheet against her vide order dated 22.9.94 (Annexure A-2) on the ground that the authorities allotted her a railway quarter for use of herself and her family but she allowed some other party to reside in that quarter. thereby, the applicant violated the Rule 3.1(i) & (iii) of CCS (Conduct) Rules, 1966. Thereafter, enquiry was held and the enquiry officer submitted on 28.6.95 (Annexure A-6) holding that:-

"Keeping all the factors in view I am giving Benefit of doubt" to Smt. S. Uma Maheswari for the charges framed against her vide No. WLE/2300/Major/94/UM/20 dated 22.9.94."

But the applicant was issued an order of punishment on 16.8.95 (Annexure A-7) by which her pay has been reduced to one stage lower in the same scale for a period of one year with cumulative effect and it is also mentioned that this would affect her future increments. Feeling aggrieved by the said order the applicant made a representation to the authorities on 18.7.95. But as the respondents did not consider her case, she approached this tribunal by filing one application bearing No. O.A. 144/1996 which was disposed of on 13.2.96 with a direction upon the respondents to dispose of the appeal of the applicant with a speaking order by giving her full opportunity of personal hearing. In pursuance of the said order, the respondents disposed of the appeal of the applicant on 12.4.1996 (Annexure A-9) after giving her the opportunity of personal hearing. After issuing the impugned order dated 12.4.96 the respondents enhanced the punishment of the applicant by reverting her from the post of Junior Clerk in the scale of pay Rs.950-1500/- (RSRP) to the post of Female Khalasi in the scale of Rs. 750-940/- (RSRP) for a period of 3 years w.e.f. 13.4.1996 which will affect her seniority and pay on restoration to the original grade as per rules. Feeling aggrieved by and dissatisfied with the said order of punishment, the applicant has come before this Tribunal seeking appropriate relief.

3. The respondents denied the claim of the applicant by filing written reply to the O.A. It is stated by the respondents that after issuing chargesheet against the applicant, proper enquiry has been done as per rules and the applicant was given full opportunity of personal hearing. On enquiry, charges levelled against the applicant were found to be true and therefore, the order of punishment has been issued on 12.4.1996 (Annexure A-9) as per the extant rules. No illegality or irregularity has been committed by the respondents. Thereby, the application is devoid of any merit and is liable to be dismissed.

4. Ld. counsel, Mr. P.C. Maity appearing for the applicant, submits that the enquiry officer submitted his report on 28.6.95

and the applicant was given benefit of doubt since the respondents failed to prove the charges levelled against her. It is also reported that allegation of subletting could not be proved. But the appellate authority overlooked or ignored that report. He further submits that there is no evidence in the record to show that the applicant ^{made} sublet her quarter to some other party. It is also submitted that the defence statement of the applicant has also been ignored by the respondents and the entire findings made by the appellate authority in this regard are baseless. Therefore, the impugned ~~order~~ dated 12.4.1996 and the chargesheet dated 22.9.94 are liable to be quashed.

5. Ld. counsel, Mr. P. Chatterjee appearing for the respondents, submits that the appellate authority as well as the disciplinary authority took decision on the basis of the admission made by the applicant in this matter and since the applicant made some contradictory statements, presumption has been drawn that the applicant ^{made} sublet her quarter to some unauthorised persons. So, the ~~order~~ of punishment dated 12.4.1996 was issued as per rules and therefore the Tribunal should not interfere in the matter. He further submits that the application is devoid of any merit and liable to be dismissed.

6. We have considered the submissions made by the ld. counsels for both sides and have perused the records. It remains undisputed fact in this case that the respondents could not prove the charge of subletting of quarter by the applicant to some unauthorised persons. It is admitted fact in this case that the enquiry officer conducted enquiry in the matter and gave benefit of doubt to the applicant since the respondents failed to prove the charges levelled against the applicant but the disciplinary authority disagreed with the findings and imposed minor penalty. Thereafter, the appellate authority enhanced the punishment holding that the allegation of subletting of railway quarter ^{by the applicant} has been proved but no finding whatsoever

has been made by the disciplinary authority at the time of imposition of major penalty in this regard. The respondents did not cancel the allotment of the said quarter before imposition of major penalty against the applicant and no cogent evidence by has been produced ^{by} the respondents during the time of enquiry which ^{could} ~~can~~ prove the allegation. Therefore, we are of the view that the alleged findings in respect of subletting of Government quarter by the applicant is baseless. ^{and based on no valid}

7. Moreover, the 1d. counsel for the applicant has drawn our attention to the Railway Board's Circular bearing No. R.B.E. 219/92 wherein it is mentioned that:-

"In order to tackle the problem of sub-letting in an effective manner, it is essential that surprise checks on quarters in Railway colonies are carried out to detect any case of sub-letting of Railway quarters. A committee of the following officials will conduct such surprise checks :-

- (i) The Pool Holder(Supervisor);
- (ii) The Sectional IOW,
- (iii) One representative of UMMU of the branch in which the station falls; and
- (iv) One representative of NMMU of the branch in which the station falls.

The sectional IOW will act as the convener of the committee. The report of the committee as based on their joint check will be treated final to establish the fact of subletting."

In view of the aforesaid circular, it is found that the charge by a Govt. employee of subletting of the quarter/should be enquired into by a committee. In the instant case, the Inspector of Works had submitted his report holding that the question of subletting of quarter does not arise at all(Annexure A-3) and that report was totally ignored by the respondents.

8. In view of the aforesaid circumstances, we do not find reason for imposition of punishment against the applicant for the alleged charge of subletting of quarter which could not be proved. The respondents failed to show any document in support of their action in this matter. Therefore, we are of the view that the impugned order dated 12.4.1996 should be

quashed. Accordingly, we set aside the impugned chargesheet dated 22.9.94(Annexure A-2) and the order of punishment dated 12.4.1996(Annexure A-9). We also set aside the departmental proceeding and all other impugned orders issued against the applicant in this matter. With these observations, both the M.A. and the O.A. are disposed of without any order as to costs.

G.Singh
18.1.2000
MEMBER(A)

H.Dh
18.1.2000
MEMBER(J)

S.M.