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CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH,
J O D H P U R.

Date of Order : 13.5.1996

D.A. No.49/1995

Girwar Singh ... APPLICANT

Vs

Union of India & Ors. ... RESPONDENTS

PRESENT

Mr. Vijay Mehta, Counsel for the Applicant.

Mr. Ram Narayan, Brief-holder for

Mr. P.P. Choudhary, Counsel for the Respondents No.1 to 3.

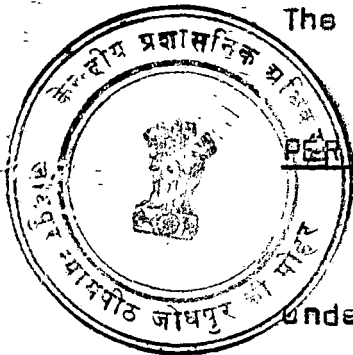
CORAM :

The Hon'ble Mr. Gopal Krishna, Vice Chairman.

The Hon'ble Mr. S.P. Biswas, Member (Administrative).

...

PER HON'BLE MR. GOPAL KRISHNA



Applicant, Girwar Singh in this application under Section 19 of the Administrative Tribunals Act, 1985, has challenged the orders at Annexure A-1 dated 20.11.1993 by which the Disciplinary Authority in exercise of powers conferred upon him under Rule 15 of the CCS(CCA) Rules, 1965 (for short 'the Rules'), imposed upon him (the applicant) the penalty of 'removal from service' with effect from 20th November, 1993 as also Annexure-7 Appellate Order dated 5.8.1994 by which the Appellate Authority in exercise of the powers conferred upon him by Rule 27 of the Rules, rejected applicant's appeal and affirmed the order of the Disciplinary Authority.

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2. We have heard the learned Counsel for the parties and have carefully perused the records.

3. The main contention of the applicant is that the Inquiry Officer did not comply with the provisions contained in rule 14(11) of the Rules and hurriedly proceeded to record evidences. It is also contended that documents as well as report of the preliminary inquiry were not furnished to the applicant. The Inquiry Officer found the applicant guilty of all the charges against him but no reasons were recorded by him therefor. It is also stated that the Inquiry Officer did not permit the applicant to take assistance of any other Government servant nominated by him for the purpose of his defence. It is vehemently urged that the penalty imposed is dis-proportionate to the alleged misconduct. The applicant was also not paid any subsistence allowance/salary for the intervening period from 9.4.1985.

4. The respondents have contested this application on the ground that the inquiry was conducted as per the principles of natural justice and the applicant had in fact volunteered to defend his case and he was given full opportunity to examine his witnesses and cross examine the witnesses produced by the department. The Disciplinary Authority, it is stated by the respondents, had passed the order imposing the penalty of removal from service upon the applicant after fully satisfying himself and taking into consideration the Rules and Law on the subject.

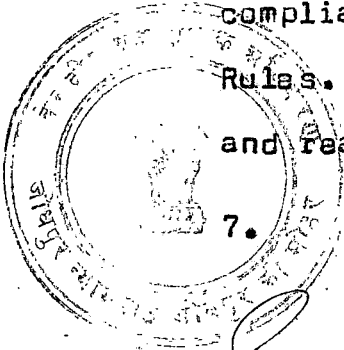
5. Rule 27 of the Rules provides that in the case of an appeal against an order imposing any of the penalties specified in Rule 11 or enhancing any penalty imposed under the said Rules, the Appellate Authority shall consider (a) whether the procedure laid down in these rules has been complied with and if not, whether such non-compliance

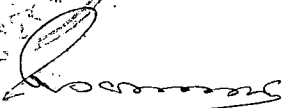
has resulted in the violation of any provisions of the Constitution of India or in the failure of justice; (b) whether the findings of the disciplinary authority are warranted by the evidences on the record ; and (c) whether the penalty or the enhanced penalty imposed is adequate or inadequate or severe. It is incumbent upon the Appellate Authority to consider all the three ingredients referred to above before taking a decision on appeal. A perusal of the Appellate Authority's order at Annexure A-7 dated 5th August, 1994 reveals that the Appellate Authority has not categorically stated in the order whether the procedure laid down in the rules has been complied with or not and whether the findings of the Disciplinary Authority are warranted by the evidences on record. The order of the Appellate Authority is, therefore, liable to be quashed.

In the result, the order of the Appellate Authority dated 5th August, 1994 is hereby quashed. We, however, make it clear that we are not setting aside the order of the Disciplinary Authority. The Appellate Authority shall decide the appeal afresh within a period of three months from the date of receipt of a copy of this order and give its findings on all the three ingredients contained in Rule 27 of the Rules and pass a reasoned order as regards payment of salary/subsistence allowances to the applicant for the intervening periods from 9th April, 1985 onwards, keeping in view the decision of Hon'ble Supreme Court in the case of Anil Kumar Gupta Vs State of Bihar and Ors. reported in (1996) 32 ATC 784. We notice with regrets that the case is lingering since long and

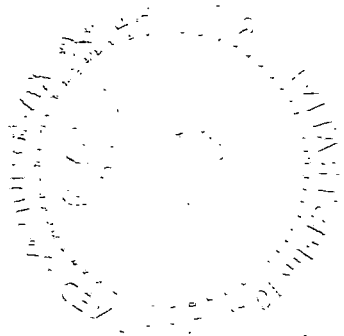
is being remitted again and again on grounds of non-compliance of one provision or other of the CCS(CCA) Rules. The respondents will do well to remember this and reach a finality while complying with the orders.

7. DA is decided accordingly. No order as to costs.




(S.P. BISWAS)
Member (A)


(GOPAL KRISHNA)
Vice Chairman



Copy

Amal Kumar

19/5/96

(in P.P. Choudhary)

19/5/96

Part II and III destroyed
in my presence on 5/6/02
under the supervision of
section officer (J) as per
order dated 19/3/02

Section officer (Record)

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