

1757 (5)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH, JODHPUR.

\* \* \*

Date of Decision: 16.1.96.

OA 542/95

Mahendra Kishore Sharma

... Applicant.

Versus

Union of India and others

... Respondents.

CORAM:

HON'BLE MR. GOPAL KRISHNA, VICE CHAIRMAN

HON'BLE MR. O.P. SHARMA, MEMBER (A)

For the Applicant

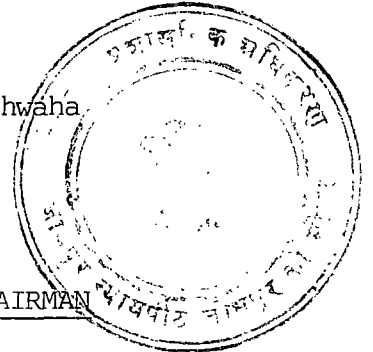
... Mr. D.S. Kachhwaha

For the Respondents

... \_\_\_\_\_

O R D E R

PER HON'BLE MR. GOPAL KRISHNA, VICE CHAIRMAN



Applicant, Mahendra Kishore Sharma, in this application u/s 19 of the Administrative Tribunals Act, 1985, has challenged the impugned order dated 20.4.95, at Ann.A-1, by which the penalty of dismissal from service, which shall ordinarily be a disqualification for future employment under the Government, was imposed upon him.

2. The applicant was serving as Superintendent E/M Grade-II in the office of the Garrison Engineer, MES, at Udaipur, when he was served with a memorandum of charges dated 4.12.93, at Ann.A-2. Disciplinary proceedings were initiated against him u/r 14 of the CCS (CCA) Rules, 1965. The charges against the applicant relate to the period from May, 1993 to September, 1993, when he had refused to accept official letters/written instructions of superiors and had wilfully not submitted his address for correspondence. After the enquiry was concluded, the disciplinary authority imposed upon the applicant the penalty of dismissal from service. The contentions of the applicant are that copies of documents, upon which reliance was placed, were not provided to him by the Enquiry Officer and he was not given an opportunity of producing witnesses and even on the basis of the materials on record no opportunity of hearing was afforded to him, and that the charges levelled against the applicant were not proved and, therefore, no punishment could have been awarded to him. It is also contended that no notice was given to him in relation to the quantum of punishment. The applicant had preferred an appeal before the appellate authority i.e. Engineer-in-Chief, Army Headquarters, (Respondent No.2), on 1.5.95 but till today the appeal has not been decided despite instructions of the Government for deciding appeals within a period of six months.

3. Since the appeal is pending consideration, we dispose of this OA, at the stage of admission, with a direction to the appellate authority i.e.

....2.

respondent No.2 to decide the applicant's appeal, at Ann.A-4, dated 1.5.95, considering whether the procedure laid down in the rules has been complied with and if not, whether such non-compliance is resulted in the violation of any provisions of the Constitution of India or in the failure of justice, and whether the findings of the disciplinary authority are warranted by the evidence on the record, and whether the penalty imposed is adequate, inadequate or severe, within a period of two months from the date of receipt of a copy of this order. A copy of the OA with annexures thereto shall also be sent alongwith a copy of this order to the appellate authority (Respondent No.2). If the applicant is aggrieved by the decision taken on the appeal, he shall be at liberty to file a fresh OA.

(O.P. SHARMA)  
MEMBER (A)

C. K. Krishna  
(GOPAL KRISHNA)  
VICE CHAIRMAN

VK

Copy of order dated 16-1-96  
along with copy of order + Annexes  
sent to R-1 to 4 sent by  
Regd Post + vide no 376040  
Date 05-2-96

and 24.1.96

Copy of order dated 16-1-96  
sent to petitioner by  
Regd Post + vide no 376040  
Date 6-2-96

and

Part II and III destroyed  
in my presence on 27/5/02  
under the supervision of  
section officer ( ) as per  
order dated 19/3/02

Section officer (Record)