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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

.....

Date of order : 4.5.2000.

O.A.NO.218/96

Jagdish Chandra Gupta S/o Shri Pyare Lal aged 48 years, Scientific Asstt.
'A' Technical Service Section, Rajasthan Atomic Power Station, Anushakti
R/o III/IA Anukiran Colony, Post Office Bhabhanagar District Chittorgarh.

....Applicant.

versus

1. Union of India through the Secretary, Department of Atomic Energy, Government of India, Anushakti Bhawan, Chatrapati Shivaji Maharaj Marg, Mumbai.
2. Station Director/Project Director, Rajasthan Atomic Power Station, PO Anushakti District Chittorgarh.
3. Executive Director (O) N.P.C.I.O. 6th Floor, Belapur Bhawan, C.B.D.Belapur, Mumbai. 400 614.
4. The Nuclear Power Corporation of India Limited, through its Managing Director, V.S.Bhawan, Anushakti Nagar, Mumbai 400 094.

.....Respondents.

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Mr. Vijay Mehta, Counsel for the applicant.

Mr. Arun Bhansali, Counsel for the respondents No. 2 to 4.
None is present for the respondent No. 1.

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CORAM :

HON'BLE MR.JUSTICE B.S.RAIKOTE, VICE CHAIRMAN

HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

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PER HON'BLE MR.JUSTICE B.S.RAIKOTE :

This application is filed being aggrieved by the order of the disciplinary authority vide Annex.A/1 dated 12.1.96 and also the order of the appellate authority vide Annex.A/14 dated 20.4.96. By these two orders, the punishment of with-holding of one increment for a period of two years without cumulative effect, has been imposed on the applicant.

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The learned counsel for the applicant submitted that the disciplinary authority while differing with the findings of the inquiry officer, should have stated the reasons and a show cause notice should have been issued to the applicant stating those reasons. On the other hand, the learned counsel for the respondents submitted that the disciplinary authority being of the view that the findings of the inquiry officer were not acceptable and as such he issued a fresh show cause notice to the applicant, therefore, the action of the disciplinary authority is consistent to the law laid down by Hon'ble the Supreme Court in JT 1999 (7) SC 62. But, in our opinion, this dispute need not detain us any longer in view of the fact that the order of the appellate authority is a non speaking order and it is liable to be set aside on this count only. The appellate authority has not exercised its jurisdiction vested in it as an appellate authority in terms of the Rule 27 (2) of the CCS (CCA) Rules. We think it appropriate to extract the relevant portion of Rule 27(2) as under :-



"27(2).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 evidence on the record; and

(c)whether the penalty or the enhanced penalty imposed as adequate, inadequate or severe;

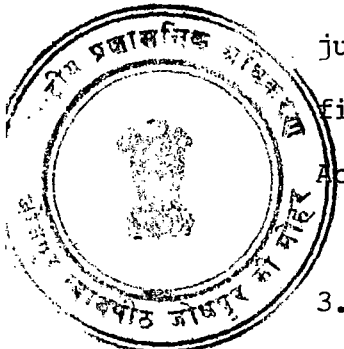
and pass orders -

(i)confirming,enhancing,reducing,or setting aside the penalty ; or

(ii)remitting the case to the authority which imposed or enhanced the penalty or to any other authority with such direction as it may deem fit in the circumstances of these cases."

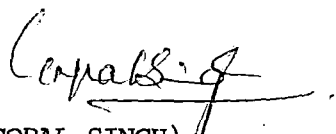
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2. From the reading of above rule, it is clear that the appellate authority should see, whether the procedure laid down in these rules has been complied with, and if not, whether such non compliance has resulted in violation of any provisions, and whether the findings of the disciplinary authority are warranted by the evidence on the record and whether, the penalty ~~or the enhanced penalty~~ imposed is adequate, inadequate or severe. From the reading of the appellate order, we find that whether the appellate authority ~~at least~~ has not considered the proper procedure followed or not, and is whether the findings of the disciplinary authority are warranted by the evidence on record. It has also not been considered whether the penalty imposed on the applicant is justified or not. From these facts, it is clear that the appellate authority has not exercised its jurisdiction vested in it as an appellate authority. For these reasons, we find that the order of the appellate authority cannot be sustained. Accordingly, we pass the order as under :-



3. The order of the appellate authority dated 20.4.96 (Annex.A/14) is hereby quashed and the matter is remitted back to the appellate authority to consider it afresh and after giving an opportunity to the applicant of being heard, if he so desires, an appropriate order shall be passed keeping in view the Rule 27 (2) of the CCS (CCA) Rules, 1965.

4. The parties are left to bear their own costs.


(GOPAL SINGH)
Adm. Member


(B.S. RAIKOTE)
Vice Chairman

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jrm

hi to

Recd Adv
19/5/2000
(Amar Bhansali)
Nels

Recd Adv
Vijay
20/5
(Vijayondkar)

Part II and III destroyed
in my presence on 27.10.06
under the supervision of
section officer (I) as per
order dated 23/8/06

Section officer (Record)

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