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**CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH; JODHPUR.**

**Original Application No. 83/2002**

**Date of the order: 04.01.2007**

**Hon'ble Mr. Kuldip Singh, Vice Chairman.**

**Hon'ble Mr. R R Bhandari, Administrative Member.**

Mohinder Lal, S/o of Shri Nazar Ram, aged about 50 years, resident of II-D 109, Jai Narain Vyas Colony, Bikaner at present employed on the post of Defence Estate Officer, in Defence Estate Office, Bikaner Circle 229, Sadulganj, Bikaner.

: Applicant.

Rep. By Mr. J K Mishra : Counsel for the applicant.



**VERSUS**

1. Union of India through Secretary to Government of India, Ministry of Defence, New Delhi. 110 066
2. The Director General, Defence Estimates, Ministry of Defence, Sector-I, R.K. Puram, New Delhi.66

: Respondents.

Rep. By Mr. Vinit Mathur : Counsel for the respondents.

**ORDER**

**Per Mr. Kuldip Singh, Vice Chairman.**

The applicant impugnes (i) the charge sheet dated 24.01.1986 ( Annex. A/1), (ii) penalty order dated 01.01.98 (Annex A/2) vide which the penalty of 'Censure' has been imposed upon him, and (iii) Order at Annex A/3 communicating the rejection of his review petition.

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2. The brief facts of this case are that the applicant was proceeded departmentally on the allegations that while functioning as Cantonment Executive Officer, Shillong Cantt. during the period from 14.12.77 to 11.02.81 caused avoidable delay in implementation of the special Grant-in-aid sanctioned by the DG D L&C for repairs to Jhalpura Bazar Road and Paltan Bazar Road thereby exhibited conduct of unbecoming of a Government servant and lack of absolute devotion to duty. He was also charged that during the said period he failed to observe the instructions issued by the then ML&C Dte letter No. 76/Stores/C/L&C/76 dated 29.05.76 in the matter relating to floating and acceptance of tenders, giving adequate publicity while calling tenders and approval of the same by the competent authority and keep the proof of dispatch of tender notices and thereby failed to maintain absolute integrity and devotion to duty. He was further charged that during the said period from 14.12.77 to 11.02.81, he failed to follow the provisions of Sec. 113 of Cantonment Act in as much as no valid agreement was executed by him with the contractor before placing the work order which in effect saddled the Cantonment Board with litigation and pecuniary loss. He has also failed to exercise proper supervision of the work relating to repairs of Jhalpura & Paltan Bazar Roads as per the provisions of Cantonment Accounts Code in as much as no entries were made in the measurement book while the work was going on and before an item of work (potholes repairs) was allowed to be



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covered by another item of work (carpeting). An inquiry was held and the inquiry officer found him guilty of the charges. On the basis of the inquiry officer's report, the impugned order dated 01.01.98 (Annex. A/2) was passed by the Disciplinary Authority, imposing the punishment of 'Censure'.

3. In the grounds challenging the impugned orders, the applicant has pleaded that he had carried out his duties to the best of ability and in good faith and also there was no ill motive in his action. He further stated that there were two other officers who finalized the execution of works and the dereliction was of his successor and not of him but no action has been taken against his successor. This plea of the applicant is running contrary to the charge in as much as no valid agreement was executed by him with the contractor before placing the work order. It is not the case of the applicant that at the time of starting of the work he was not looking after the work. Hence this ground has no force.



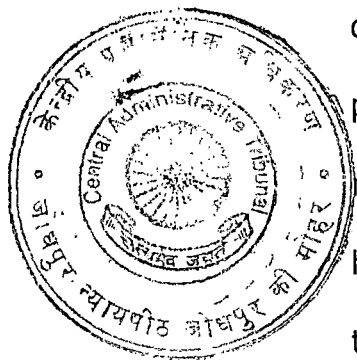
4. The next ground of the applicant is that he has been denied reasonable opportunity to defend his case in as much as he was not supplied with relevant documents to defend his case properly. In this regard the learned counsel for the applicant took us through the representation submitted by the applicant, wherein the applicant himself admits that he was allowed to inspect 42 documents and he inspected the same. The

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applicant further stated that CEO has deliberately obstructing the process of inquiry and flagrantly violating the orders of the inquiry officer for supply of documents. In our view the applicant cannot succeed on this ground since he has not mentioned as to how he was prejudiced by the non supply of documents. Further he has not mentioned what documents he has been not supplied with. A perusal of the order passed by the authorities (Annex. A/17) in this regard would go to show that the applicant himself gave the reference number of certain documents and therefore the authorities have drawn a presumption that since the applicant himself gave the reference numbers, he would be in possession of those documents. Still he was allowed by the Cantonment Executive Officer to consult the files of cantonment Board Shillong lying with the Presenting Officer and Dte. Of DE EC and collect copies of the documents relevant to his case. Hence this ground also fails.



5. Further, we cannot say that it is a case of non supply of documents. Besides, the applicant has not submitted which particular document had not been supplied to him which caused prejudice in his defence. It is well settled that mere averment of non supply of documents is not enough to challenge the final orders passed in disciplinary cases. The individual is required to show what prejudice has been caused by the non supply of particular document and in this case a sweeping allegation has been made against the authorities that documents were not

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supplied to him. Admittedly, <sup>-5-</sup> the applicant has not given any detail relating to the non supply of documents. He has also not stated what prejudice has been caused to him. In view of this ground has to be rejected

6. Next, the applicant has submitted that he has not committed any misconduct and he has found guilty on the basis of conjunctures and surmises. But we find from the report of the inquiry officer that there is sufficient evidences to hold the applicant guilty. The Disciplinary Authority has also agreed with the findings of the inquiry officer held the applicant guilty of the charges. The Apex Court has repeatedly held that Courts/Tribunals, while exercising the power of judicial review cannot re appreciate the evidences and come to a different conclusion than the one arrived at by the Disciplinary Authority.



7. The last limb of the argument of the learned counsel for the applicant is that the Disciplinary Authority has not passed a speaking order since the Disciplinary Authority has adduced no reasons while passing the impugned order. We have gone through the penalty order Annex. A/2 passed by the President. Paragraph 3 of the order clearly states that the President after careful consideration of the report of the inquiry officer and the representation of the delinquent official dated 17.06.94 and also the evidence came on record in terms of the inquiry proceedings and circumstances of the case had come to the

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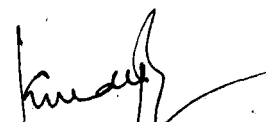
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conclusion that the applicant had committed procedural irregularities in as much as he had failed to observe the instructions regarding floating/acceptance of tenders and signing of the required agreement with the contractor. Therefore, we hold that the President, after considering the entire material including the representation of the applicant, evidences came on record had formed the opinion and come to the conclusion that the applicant had committed procedural irregularities and imposed the penalty of 'Censure'.

8. In view of the foregoing reasons, we find no ground to interfere with the orders passed by the respondents and the applicant has not made out any case for our interference. Accordingly, we hold that there is no merit in this O.A. The O.A is therefore dismissed. No costs.

  
( R.R Bhandari )

**Administrative Member**

  
(Kuldip Singh)

**Vice Chairman.**

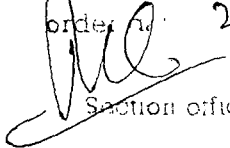
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Part II and III received  
in my presence 2/6/14  
under the supervision of  
Section Officer as per  
order no. 28/3/14

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Section officer (Records)