

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No. 290/00030/14

Jodhpur this the 11th December, 2014

CORAM

**Hon'ble Mr. Justice Kailash Chandra Joshi, Member (Judicial),
Hon'ble Ms. Meenakshi Hooja, Member (Administrative)**

Musafir Ram Bind S/o Shri Dukhanti Ram, aged about 56 years, By caste Bind, Resident of Quarter No. C-12, Heavy Water Colony, Rawatbhata, Post Bhavnagar, Via – Kota, Rajasthan. At present holding the post of Scientific Officer/E, under the respondents.

....Applicant

By Advocate: Mr Harish Purohit & Anjana Jawa.

Versus

1. Union of India through the Secretary to the Govt. of India, Department of Energy, New Delhi.
2. Secretary, Department of Atomic Energy, Anu Shakti Bhawan, C.S.M. Marg, Mumbai 400001.
3. General Manager, Heavy Water Plant (Kota).

.....Respondents

By Advocate : Ms K. Parveen.

ORDER (Oral)

Per Justice K.C. Joshi, Member (J)

The applicant has filed this OA against the order Annex. A/1 dated 14.10.2013 by which punishment of censure was imposed upon the applicant.



2. The brief facts of the case, as stated by the applicant, are that the applicant is Scientific Officer (E) under the respondents and he was never issued any warning, nor any disciplinary action was ever initiated against the applicant except present punishment. The applicant was having some dispute with his wife and she is living separately from the year 2002 and the applicant is living at Kota with his ailing mother. The father of the applicant adopted one Lali Devi as daughter and she is staying with the applicant to look after his ailing mother and this fact is evident from the ration card (Annex. A/2) issued by competent authority. The applicant was allotted a accommodation by the respondents wherein applicant was staying with his mother and aforesaid sister Lali Devi. The wife of the applicant filed an application seeking maintenance while leveling the allegation that the applicant is having illegal relationship with aforesaid Lali Devi. However, competent court deciding the maintenance application delivered a categorical finding that the applicant is having no illicit relationship with Lali Devi. The applicant has averred that it appears that his wife submitted a complaint to the respondents making allegations against the applicant in respect of Lali Devi, therefore, in the year 2007 a show cause notice was issued to the applicant to which the applicant denied any kind of subletting or illegal stay of any one. Subsequently, charge sheet under rule 14 of CCS (CCA) Rules, 1965 has been served upon the applicant vide Memorandum dated 10.02.2010 (Annex. A/4) and two charges were leveled against the applicant first one pertaining to the fact that while discharging duties of Scientific Officer/E, the applicant submitted a false document allegedly relating to adoption of Ms Lali Devi and second

charge pertaining to the fact that while working as such at Kota, the applicant kept an unauthorized person in the Govt. residential accommodation allotted to him claiming her as family member. The applicant submitted a detailed response on 23.03.2010 but Disciplinary Authority was not satisfied with the written statement submitted by the applicant, therefore, an Inquiry Officer was appointed to probe the said charges. During the course of inquiry witnesses were produced on behalf of respondent-department and were examined by the applicant. The Inquiry Officer submitted its report to the Disciplinary Authority and copy of the same was supplied to the applicant vide endorsement dated 18.04.2012. The applicant was exonerated of charge No. 1 by the Inquiry Officer but concluded that affidavits submitted by the applicant were found to be false and the Inquiry Officer found the charge No. 2 proved against the applicant. After receiving the inquiry report, the applicant submitted a detailed explanation to the Disciplinary Authority and requested him for personal hearing which was granted to him. But, the applicant was taken by surprise when he received order dated 14.10.2013 whereby punishment of censure was imposed upon him. The applicant has already attained the age of 56 years and only 4 years' service is left and the applicant is having the last opportunity of promotion on the post of SO/E to SO/F and in view of punishment imposed by Annex. A/1, the applicant may be denied the promotion. Therefore, being aggrieved by the punishment imposed vide order Annex. A/1 dated 14.10.2013, the applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 seeking following relief(s) :

- (i) That the order impugned dated 14.10.2013 Annex. A/1 may kindly be declared illegal and be accordingly quashed and set aside,
- (ii) That if during the pendency of Original Application, respondents' denies of opportunity of promotion to the applicant in view of order Annex. A/1, then, respondents may kindly be directed to convene the review DPC to consider the case of applicant.
- (iii) That any other direction, or orders may be passed in favour of the applicant, which may be deemed just and proper under the facts and circumstances of this case in the interest of justice.
- (iv) That the cost of this Application may be awarded..

3. By way of reply, the respondents while raising preliminary objection that the applicant without availing statutory remedy available to him in the form of assailing the validity and propriety of the impugned order dated 14.10.2013 passed by Disciplinary Authority before competent Appellate Authority, directly approached this Tribunal. It has been inter-alia averred that where the departmental proceedings have ended with the imposition of a minor penalty viz. censure, recovery of pecuniary loss caused to the Govt., withholding of increments of pay and withholding of promotion, the recommendation of the Departmental Promotion Committee is required to be kept in a sealed cover and will not be given effect to. Both the case of the employee for promotion may be considered by the next DPC when it meets after the conclusion of the departmental proceedings. If the findings of the DPC is in favour of the employee, he may be promoted in his turn if the penalty is that of 'Censure'.

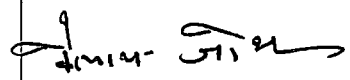
4. During the course of argument, counsel for the respondents submitted that the applicant without availing the statutory remedy by way of filing an appeal against the order of Disciplinary Authority within 45 days, directly approached this Tribunal, therefore, OA filed by the applicant is not maintainable and premature.

5. Looking to entire facts and circumstances of the case, we intend to dispose of this OA with certain directions. Accordingly, it is directed that the applicant shall file an appeal, against the order Annex. A/1 dated 14.10.2013 passed by Disciplinary Authority, before competent Appellate Authority within a month from the date of receipt of this order and competent Appellate Authority shall treat the appeal, filed by the applicant, within limitation period of 45 days, and accordingly shall pass an appropriate order within 2 months from the date of receipt of appeal so filed. Thereafter, if any grievance remains to the applicant, he may approach appropriate forum, if so advised.

6. In terms of above direction, OA is disposed of with no order as to costs.


(MEENAKSHI HOOJA)
Administrative Member

Ss/


(JUSTICE K.C.JOSHI)
Judicial Member

for
22-12-14

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