

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

OA No. 1155 of 1997

Date of Order: 24.11.2004

Present : Hon'ble Mr. Mukesh Kumar Gupta, Judicial Member
Hon'ble Mr. M.K. Misra, Administrative Member

TAPAS KR. BHATTACHARJEE

VS.

UNION OF INDIA (NSSO)

For the applicant : Mr. K.C. Saha/ Mr. P.
Chatterjee, Counsel

For the respondents : Ms. U. Sanyal

O R D E R (ORAL)

Mr. Mukesh Kumar Gupta, JM:

Penalty order dated 11.7.96 as well as the appellate authority's order dated 11.2.97 modifying the penalty have been impugned in the present case.

2. The facts which are required to be noticed are that the applicant, an investigator in the National Sample Survey Organisation was primarily required to conduct socio-economic survey in such areas as may be directed by the concerned authorities from time to time for collecting date from various households. He was assigned such job bearing Sl. No. 17589 (52 rounds) Village: Charrampur, Tehsil: Balagar, District: Hooghly. He completed the usual investigation and submitted the report. The Regional Assistant Director, MSSO (FOD), Burdwan decided on 16.4.96 to check back the sample survey conducted by the applicant for the period from 11.3.96 to 19.3.96. The applicant was also directed to be present during such exercise. Some discrepancies were noticed and therefore the Regional Assistant Director came to the conclusion that no care was taken by the applicant to ensure qualitative work. Therefore, a memorandum dated

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14.6.96 (Annexure A-2) was issued calling applicant's explanation. The applicant submitted his explanation which was not agreed to and vide order dated 11.7.96, it was concluded that the charge against the applicant was proved beyond doubt and the applicant's increments were directed to be withheld for a period of 3 years without cumulative effect. Being aggrieved with the aforesaid penalty order, he filed an appeal before the appellate authority which though was turned down, but the aforesaid penalty was reduced to withhold one increment for one year without cumulative effect vide order dated 11.2.97.

3. The aforesaid orders are challenged in the present application. It is contended that the applicant discharged his duties as investigator to best of his efficiency and the facts and figures compiled by him during investigation were correct; the applicant has been harassed and awarded punishment based on wrong facts and figures; a stigma has been cast in his service career without any basis; the authorities who conveyed the check back should have been cautious before giving fictitious figure.

4. The respondents contested the applicant's claim and stated that the applicant was given the chance to examine the informant and reconcile the figure which he failed to do. He further failed to explain satisfactorily the variations/ discrepancies observed at the time of check back and therefore it was decided to reject the data collected by the applicant. Rule 16 proceedings were initiated against the applicant and his representation was duly considered by the disciplinary authority while passing the impugned penalty order dated 11.7.96. The appellate authority, though observed that there were various factors which could not be overlooked but took a lenient view and modified the penalty which was purely humanitarian and



economic consideration. Instead of reconciling to this situation, the applicant filed this present application, contended the respondents. The applicant has failed to point out any illegality, irregularity in the respondents' act.

5. We heard learned counsel for the parties and perused the pleadings.

6. We may note that the appellate authority observed that the arguments put forth by the applicant were hollow and merits outright rejection. It was further observed that he committed errors in the collection of data which related to his official performance. Finding the penalty imposed by the disciplinary authority as harsh and taking lenient view, the penalty was modified. It is well settled that the Court/ Tribunal cannot substitute their own view and finding for the view taken by the disciplinary/ appellate authority, particularly when the same were based on facts. As we find in the present case, the entire case revolves around factual aspect, which cannot be judicially determined in proceedings in the present form. We do not find any illegality or error either in procedure or otherwise. Learned counsel for the applicant made strenuous attempt to contend that the applicant had suffered in his career and stigma has been casted by the aforesaid impugned orders without any justification. On bestowing our careful consideration, we are unable to accede to this contention as the factual aspects contended by him were noticed in specific by the appellate authority, who had also held that the applicant committed errors in collection of data resulting wastage of Government money and necessitating the Government to get the sampled village resurveyed by another investigator.