

CENTRAL ADMINISTRATIVE TRIBUNAL ERNAKULAM BENCH

ORIGINAL APPLICATION NO. 511 of 2013

Thursday this the 21st day of January, 2016

CORAM

**Hon'ble Mr. Justice N.K.Balakrishnan, Judicial Member
Hon'ble Mrs. P. Gopinath, Administrative Member**

K. Haridas, aged 60 years, S/o late P.K.Krishnapanicker,
Joint Assistant Director (Audit) (Retired)
Internal Audit Party No.1.
Central Reserve Police Force,
Chennai-600 065.
residing at Harimandiram,
Karipur, Malayankezhu PO
Thiruvananthapuram.695571.

...Applicant

[By Senior Advocate Mrs. Sumathi Dandapani along with Advocate Mr. Mathew Kuriakose)

Versus

1. Union of India, represented by the Secretary to Government of India, Ministry of Home Affairs, North Block, New Delhi-110 001.
2. The Director General, Directorate General, Central Reserve Police Force, Block No.I, CGO Complex, Lodhi Road, New Delhi-110 003.
3. The Deputy Inspector General of Police, Group Centre, Central Reserve Police Force, Talegaon, Pune, Maharashtra-410507.

...Respondents

(By Advocate Mr.N.Anilkumar, Sr.PCGSC)

This Original Application having been finally heard on 15.1.2016 the Tribunal on 21.1.2016 delivered the following:

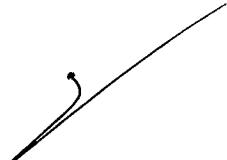
O R D E R

Per: Justice N.K.Balakrishnan, Judicial Member

Annexure A2 charge was laid against the applicant. Reply was furnished by the applicant. Inquiry was conducted. The Inquiry Officer, as per Annexure A3 Inquiry Report, held that the allegations "stood not proved". The Disciplinary Authority disagreed with the same. Annexure A4 disagreement note was furnished to the applicant to which representation/reply was given by him. The Disciplinary Authority found that the charges levelled against the applicant were proved and hence a major penalty of compulsory retirement was imposed on the applicant. Annexure A7 appeal was submitted by the applicant. It was rejected by Annexure A8 order.

2. The learned Senior Counsel for the applicant has argued at length contending that the allegations are absolutely false and that though the Disciplinary Authority can disagree with the finding of the Inquiry Officer, there was no other material before the Disciplinary Authority to have a disagreement with the Inquiry Officer. So many other aspects were also referred to by the learned Senior Counsel for the applicant in support of her submission that the respondents had serious grouse against the applicant for variety of reasons.

3. At the outset, we could find and it is not disputed by the learned counsel for respondents also that Annexure A7 appeal was in fact heard by the Disciplinary Authority himself. It was disposed of by him. It is per se illegal. When the appeal was preferred against the decision of the

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Disciplinary Authority, the same could not have been heard by the very same officer. As such Annexure A8 is to be treated as non est.

4. As the order passed by the Disciplinary Authority has to be revisited by the competent Appellate Authority it will not be proper for this Tribunal to go into the merits of this case at this stage, since as of now there would be no Appellate Order so as to contend that the two authorities had analyzed the evidence adduced by the prosecution in substantiation of the charge laid against the applicant. As such it is just and proper that Annexure A8 order is set aside and the appeal is directed to be decided by a competent Appellate Authority. The respondents should bear in mind that the applicant retired from service long back and so the appeal should be disposed of at the earliest.

5. In the result, this O.A is allowed setting aside Annexure A8 order of the Appellate Authority. The appeal shall be heard afresh by the competent Appellate Authority. The Appellate Authority shall afford the appellant a reasonable opportunity of being heard. It is needless to say the Appellate Authority has to analyze the evidence and circumstances independently, objectively and dispassionately. The appeal shall be disposed of within two months from the date of receipt of a copy of this order. Copy of the Appellate Order shall be furnished to the applicant without delay. No order as to costs.


(Mrs. P. Gopinath)
Administrative Member


(N.K. Balakrishnan)
Judicial Member