

Central Administrative Tribunal
Ernakulam Bench

OA No.190/13

Wednesday, this the 17th day of February, 2016

CORAM

Hon'ble Mr.Justice N.K.Balakrishnan, Judicial Member

Hon'ble Mrs.P.Gopinath, Administrative Member

James Thomas

S/o Thomas

Retired Security Guard

Cochin Special Economic Zone

Kakkanad (Under compulsory retirement)

Residing at Channakuzhiyil House

Somankaranpady P.O.

Padappu, Kasaragod

Applicant

(By Advocate: Mr.P.A.Kumaran)

Versus

1. Union of India represented by the
Secretary to Govt of India
Ministry of Commerce and Industry
New Delhi 110 001
2. The Joint Secretary
Ministry of Commerce and Industry
New Delhi-110 001
3. The Development Commissioner
Cochin Special Economic Zone
Kakkanad 682 037.
4. Deputy Development Commissioner
Cochin Special Economic Zone
Kakkanad 682 037.

Respondents

(By Advocate: Mr.N.Anil Kumar, Sr.PCGC)

The OA having been heard on 17th January, 2016, this Tribunal delivered the following order on the same day:-


ORDER (Oral)

By N.K.Balakrishnan, Judicial Member

The applicant has approached this Tribunal challenging Annexure A1 order passed by the Disciplinary Authority, Annexure A8 of Appellate Authority and Annexure A11 communication. The Disciplinary Authority imposed a penalty of removal of the applicant from service. In appeal, the appellate authority modified the penalty to compulsory retirement. Annexure A9 revision petition was submitted by the applicant. Since it was not disposed of, the applicant approached this Tribunal by filing OA No.494/11. As per Annexure A10 order dated 25/6/2012, the Tribunal directed the revision to be disposed of within a period of three months from the date of receipt of copy of that order.

2. Learned counsel for the applicant submits that no notice was issued by the revision authority/review authority for a personal hearing in the matter. Annexure A11 communication dated 2/4/2012 was given to the applicant, in which it is stated that the Reviewing Authority upheld the penalty imposed by the Disciplinary Authority. That means, even before Annexure A10 order dated 25/6/2012, the revision had been disposed of. No order of the Revision Authority was served on the applicant, submits learned counsel for the applicant. No document has been produced by the respondents to show that a separate revision order was passed.

3. Even if a revision order was passed, the penalty imposed by the Disciplinary Authority could not have been revived without issuing notice to the applicant and without affording an opportunity of being heard specifically



putting the officer/petitioner to notice of the intended/proposed enhancement of penalty. In para 10 of the reply statement, it is stated that the revision petition was considered by the Reviewing Authority and the Reviewing Authority had upheld the penalty imposed by the Disciplinary Authority. In other words, it was the order dated 19/5/2010 of the Disciplinary Authority which was upheld by the Reviewing Authority. Therefore, it is clear that the Revision Authority revived the order of the Disciplinary Authority without considering the order passed by the Appellate Authority. In any event, there is nothing on record to show that the applicant was given an opportunity of being heard in the matter. Therefore, the order passed by the Revision Authority is found to be illegal and unsustainable. As such, we are inclined to set aside Annexure A11 communication/order of revision passed by the Reviewing Authority.

4. Based on Annexure A9 Revision Petition, the Revision Authority has to consider the matter afresh after affording the applicant a personal hearing. The Revision Petition shall be disposed of within a period of three months from the date of receipt of the copy of this order. Accordingly, OA is disposed of. No order as to costs.



(P.Gopinath)
Administrative Member



(N.K. Balakrishnan)
Judicial Member