

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY.

O.A.No. 4
T.A.No. XXXX

1986
198x

DATE OF DECISION 23-4-1987

Gopal A. Adavadar Applicant/s.

Mr. B. N. Singhvi Advocate for the Applicant/s.

Versus

Union of India Respondent/s.

Mr. S. R. Atre (For Mr. P. M. Pradhan) Advocate for the Respondent(s).

CORAM:

The Hon'ble Member(A) J. G. Rajadhyaksha
The Hon'ble Member(J) M. B. Mujumdar

1. Whether Reporters of local newspapers may be allowed to see the Judgment?
2. To be referred to the Reporter or not ?
3. Whether to be circulated to all Benches?

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY

ORIGINAL APPLICATION No. 4/86

Mr. Gopal A. Adavadar
7 Aristocrat Housing Society
Behind New State Bank
Old Agra Road
Nashik-2

Applicant

V/s.

1. The Union of India
2. Mr. Devinder Singh
Commissioner of Income-Tax
Pune Gharage,
PUNE

Respondents

Coram: Hon'ble Member (A) J G Rajadhyaksha
Hon'ble Member (J) M B Mujumdar

Appearance

1. Mr. B.N. Singhvi
Advocate
for the applicant
2. Mr. S.R. Atre
(for Mr. P.M. Pradhan)
Advocate
for the Respondents

JUDGMENT

DATED: 16.4.1987

(PER: M.B. Mujumdar, Member(J))

The applicant has filed this application under section 19 of the Administrative Tribunals Act, 1985 challenging the order passed by the Commissioner of Income-Tax, Pune on 30th September, 1985 by which he is reverted from the grade of Income Tax Inspector to the grade of Tax Assistant with effect from 7.10.1985, with a direction that he should not be considered for promotion to the grade of Inspector for a period of 3 years. There is a further direction that on reversion he will be placed at the bottom in the seniority list of Tax Assistants as on 7.10.1985. Pay on reversion was fixed at Rs. 580/- per month.

2. The facts relevant for the purpose of this decision may be stated as follows: The applicant joined the Income Tax Department as a Steno-typist in 1956. In 1968, he was promoted as Upper Division Clerk. In 1974, he was promoted as Income Tax Inspector and Posted at Nashik. In 1981, he was transferred to Panvel in District Raigad. In April, 1982 while at Panvel he fell ill, the illness was diagnosed as Cervical Spondylosis. He was on commuted leave for 61 days from 12.4.1982 to 11.6.1982 on the ground of that illness. In support of his illness he had produced a certificate from the Civil Surgeon, Nashik, Dr. K.N. Thakare dated 16.4.1982. He obtained another certificate on 26.4.1982 from Dr. V.V. Saokar, Consulting Orthopaedic Surgeon & Hand Surgeon and Medical Officer, Civil Hospital, Nashik, in support of his illness. On 16.6.1982 Dr. Kadasane, Civil Surgeon, certified applicant's illness as Cervical Spondylosis and absence from duty from 12.6.1982 to 21.7.1982. On 21.7.82 he was examined by the Civil Surgeon of Nashik again and Dr. K.M. Thakare certified that he was fit for duty from 22.7.1982. By showing that certificate he appeared for a departmental examination at Pune from 22.7.1982 to 28.7.1982 for the post of Income Tax Officer. After completing the examination, but without joining his duties at Panvel he again went on leave from 29.7.1982. Thereafter, he was on leave upto 8.3.1984, and he joined his duties at Panvel on 9.3.1984.

3. In the meanwhile on 9.2.1983 a statement of five charges along with the necessary accompaniments was served on the applicant. Briefly stated, the first charge

was in respect of a demand of Rs. 5,000/- and acceptance of Rs. 1,400/- as illegal gratification by the applicant from one Shri G.B. Sali of Nashik Road with whom he was having certain official work. The second charge was in respect of a demand of illegal gratification of Rs.5000/- from the same Shri G B Sali for not creating any problems for him in the taxation matters. The third charge which is material in this case is quoted below :

"Shri G A Adavardkar has displayed total lack of devotion to duty by remaining absent continuously from 29th July, 1982 till today on the ground of ill health without producing any medical certificate. While he was on leave the alleged ground of ill health, he travelled to Pune and appeared for Departmental Examination for promotion to ITO, Group 'B' from 22nd July, 1982 to 28th July, 1982. He ought to have produced medical certificate before his Income-Tax Officer and reported for duty at Panvel. Instead, without informing Income Tax Officer or without producing the medical certificate of fitness to his ITO and without going to the place of duty at Panvel, he appeared for the departmental examination at Pune from 22nd July, to 28th July, 1982. After completing his examination, he did not report to Panvel. From Nasik he applied for leave on the ground of ill health. Since then, he has not reported for duty till to-day and has been asking for leave on the ground of ill health till 15th December, 1982. Thereafter, there is no application for leave nor has he joined. All these applications are not supported by satisfactory explanation. He has, thus deserted from his duties and showed utter lack of devotion to duty violating Rule 3(1)(ii) of the CCS (C) Rules, 1964".

The fourth charge was in respect of the false statement made by the applicant in his reply dated 1.10.1982 addressed to the Commissioner of Income Tax, Pune. The fifth charge was in respect of violation of Rule 18(2) of the CCS (Conduct) Rules by the applicant by investing in two flats in Mandar Cooperative Housing Society at Nashik in the name of his sons. By a memorandum dated 7.4.1983 one more charge was framed against him and it was in respect of his beha-

viour in the Aristocrat Cooperative Housing Society, Nashik, in which the applicant was having a residential flat.

4. One Shri T. Sundarrajan, Income Tax Officer, working at Kolhapur was appointed as the Inquiring Authority. Shri M.P. Kotwal, Income Tax Officer, Nashik was appointed as Presenting Officer and the applicant himself conducted his defence. The Presenting Officer examined G.B. Sali who had made the complaint to the Anti Corruption Bureau against the applicant; S.S. Jambhale who supported Sali on some points, G.D. Hagavane, N.S. Shirodkar, Income Tax Officers, Panvel, Mrs. Veena Sudhakar Pisolkar who was one of the signatories to the complaint made by some of the residents of the Aristocrat Cooperative Housing Society, Nashik, against the applicant to the Commissioner of Income Tax, Pune, S.S. Pisolkar and A.M. Gote, Secretary of the Aristocrat Cooperative Housing Society at Nashik. Mrs. Pisolkar and Gote were examined in support of the last charge, while others were examined in support of the other charges except charge no.3. The applicant ~~ee~~ cross-examined all of them. Though G.B. Sali had made serious allegations against the applicant regarding demand of illegal gratification and though there was tape recorded evidence against the applicant, the applicant did not examine himself. He, however, examined R.K. Hodekar, Advocate and R.P. Malpure as his witnesses regarding the first two charges.

5. The Presenting Officer examined Dr. M.L. Lanke-shwar the Civil Surgeon of Thane on Charge 3. The Enquiry Officer asked 9 or 10 questions to the applicant. The first question was ^{Q2} to whether he would like to examine himself as a witness. The applicant answered in the negative. Probably, in view of this answer he was not cross-examined by the Presenting Officer.

6. After considering the evidence and circumstances the Enquiring Officer by his report dated 8.2.1985 held that none of the charges framed against the applicant was proved. The Disciplinary Authority i.e., the Commissioner of Income-Tax, Pune by his order dated 17.6.1985~~6~~ agreed with the findings of the Enquiry Officer except the finding in respect of charge No.3. He held the applicant guilty of charge no.3, and directed that the penalty of reduction to lower grade of Tax Assistant with effect from 19.6.1985 which would be a bar to the promotion of the applicant for a period of three years be imposed. He also directed, that on reversion the seniority of the applicant would be at the bottom of the list of Tax Assistants.

7. Against that order, the applicant filed a Writ Petition in the High Court of Judicature at Bombay. It appears that in the High Court on 22.4.1985 a statement was made on behalf of the Respondents that a fresh opportunity would be given to the applicant, after informing him the reasons for disagreement between Enquiring Officer and Disciplinary Authority and thereafter proper orders would be again~~6~~ passed. By an order dated 30.7.1985 the order of reversion passed against the applicant was withdrawn. On the same day i.e., 30.7.1985 a notice was issued to the applicant asking him to give his say in ~~the~~ respect of charge no.3, and show cause why a major penalty should not be imposed upon him. But that notice did not contain the reasons for disagreement between Enquiry Officer and Disciplinary Authority. Therefore, the applicant sent an application dated 5.8.1985 asking for the reasons for disagreement. The Disciplinary Authority informed the detailed

reasons to the applicant on 7.8.1985. The applicant submitted his reply on 20.8.1985. He was also given a personal hearing on 23.8.1985. Thereafter, the Disciplinary Authority passed an exhaustive order on 30.9.1985 holding the applicant guilty of charge no.3 and imposing the penalty of reduction to the grade of Tax Assistant with effect from 7.10.1985 which would be a bar to his promotion for a period of three years. It is further directed that on reversion the applicant would be at the bottom of the list of Tax Assistants as on 7.10.1985 i.e., below one Shri S.S. Ali, Tax Assistant. It is clarified that the applicant would be considered for promotion by the Departmental Promotion Committee which may be held on or after 8.10.1988. The applicant has challenged this order of the Disciplinary Authority before us. He has preferred the departmental appeal against that order on 5.11.1985 but before that appeal was decided, the applicant approached this Tribunal and filed the present application on 9.1.1986. He had requested the Tribunal for staying the order of the disciplinary authority, but no interim stay was granted. Subsequently, he is transferred to Nanded, but he has not joined his duties at Nanded. In fact, it appears that ever since the impugned order was passed he is on leave of one kind or the other.

8. The Respondents have filed an exhaustive written statement. We have also heard the exhaustive arguments of Mr. B.N. Singhvi, the Learned Advocate, for the applicant, and Mr. S.R. Atre, the Learned Advocate for the Respondents.

9. From the arguments advanced before us by Mr. Singhvi the following points arise for our consideration :

- 1) Whether the finding of the Disciplinary authority in respect of Charge no. 3 is

perverse as there is no evidence to support it?

- 2) Whether the Disciplinary Authority had no legal authority to rely on the evidence of Dr. Lankeshwar, the Civil Surgeon of Thane?
- 3) Whether the Disciplinary Authority has altered Charge No. 3 without giving an opportunity to the applicant?
- 4) Is it correct that Charge no. 3 which is held as proved by the Disciplinary Authority does not amount to mis-conduct, as such?
- 5) Whether the penalty imposed upon the applicant by the Disciplinary Authority is multiple in nature and disproportionate to the gravity of Charge no. 3 ?

We may point out here that the above points are framed on the basis of what Mr. Singhvi stated at the initial stage of his argument when we asked him ^{to} as which points he wants to urge in his arguments. After considering his arguments and the evidence and circumstances on record, we find no substance in any of the points urged by Mr. Singhvi.

10. We have already quoted the third charge which is held proved against the applicant by the Disciplinary Authority. The charge is lengthy, exhaustive and in detail. It was vehemently urged by Mr. Singhvi on behalf of the applicant that there is absolutely no evidence to prove this charge and the finding of the disciplinary authority in this respect is perverse.

11. The disciplinary authority has given very cogent and satisfactory reasons for his conclusion that the said charge is proved. It may be pointed out here that from 12.4.1982 to 21.7.1982 the applicant was on leave of one kind or the other. According to him he had to go on leave because he developed Cervical Spondylosis. By a memorandum dated 28.6.1982, the applicant was informed that in the past he had availed of 240 days of commuted leave and only 10 days commuted leave was now at his credit on 1.6.1982. The memorandum shows that on 12.6.1982 the applicant had requested for commuted leave for 40 days and hence he was informed that his application could not be considered as that much leave was not available at his credit. As already pointed out, the applicant was examined by Dr. K.N. Thakare, Acting Civil Surgeon of Nashik on 16.4.1982 and he found him to be suffering from Cervical Spondylosis. On 26.4.1982 the applicant was examined by Dr. V.V. Saokar the Consulting Orthopaedic Surgeon attached to the Civil Hospital, Nashik, and his certificate given on the same day shows that the applicant was suffering from Cervical Spondylosis. The certificate of Dr. Kadasane, Civil Surgeon, Nashik, dated 16.6.1982 shows that the applicant was suffering from Cervical Spondylosis and his absence from duty from 12.6.1982 to 21.7.1982 was necessary for the restoration of his health. From 22.7.1982 to 28.7.1985 there was a departmental examination for the post of Income Tax Officers at Pune. There is a certificate of Dr. K.N. Thakare acting Civil Surgeon of Nashik dated 21.7.1982 which shows that the applicant had recovered from his illness and was fit to resume his duties with effect from 22.7.1982. With that certificate, the applicant went to Pune, appeared at the departmental

examination and after returning to Nashik again~~s~~ applied for leave on the ground that he was not in a position to resume his duties. The impugned order of the Disciplinary Authority dated 30.9.1985 shows that between 29.7.1982 and 18.2.1984 the applicant had made in all 21 applications for extra-ordinary leave for different periods and in each application he had relied on the certificate of the Civil Surgeon, Nashik, dated 26.4.1982 (in fact, the certificate of that date is issued by Dr. V.V. Saokar, the Consulting Orthopaedic Surgeon of the Civil Hospital, but it is countersigned by the Acting Civil Surgeon Dr. K.N. Thakare). We are not so much concerned here with the applications made by the applicant for commuted leave from 1.3.1983 onwards because before that date the memorandum dated 9.2.1983 along with the charges including charge no.3 was served on the applicant.

12. On the above facts, charge no.3 as it is, deserves to be held proved. Thus after 19.7.1982 till the date on which the charges were framed, the applicant had not produced any fresh medical certificate. All the while he was relying on the medical certificate issued by the Civil Surgeon on 26.4.1982, but before appearing at the examination at Pune, he did produce fitness certificate dated 21.7.1982 issued by the Civil Surgeon stating that he was fit for joining his duties from 22.7.1982. Thus the statement in the first sentence of the charge that the applicant had remained absent continuously from 29.7.82 till the date of charge on the ground of ill health without producing any medical certificate cannot be disputed on any count. The statement in the second sentence that during his period of leave on the ground of ill health he

travelled to Pune, appeared at the departmental examination there from 22.7.1982 to 28.7.1982 cannot also be disputed. Admittedly, the fact that he had not produced a medical certificate before his Income Tax Officer and had not reported for duty at Panvel also cannot be controverted. Admittedly, the applicant had gone directly to Pune for appearing at the examination after obtaining a fitness certificate dated 21.7.1982. If he was fit to appear at the examination which went on for 6 days, there was no justification for not going to Panvel where he was posted. Even after completing the examination he did not go to Panvel for reporting for duty, but he seems to have gone back to Nashik directly, and submitted a fresh application for leave on the next day i.e., 29.7.1982. After some sentences in the charge it is alleged that all the subsequent applications for leave were not supported by satisfactory explanation and thereby he had deserted his duties and showed utter lack of devotion to duty in violation of Rule 3(i)(ii) of the Central Civil Services (Conduct) Rules 1964. There cannot be any doubt that submitting applications for leave un-supported by fresh medical certificates clearly shows lack of devotion to duty. Rule 3(i) lays down that every Government Servant should maintain absolute integrity; should maintain devotion to duty and do nothing which is unbecoming of a Government Servant. In the present case the charge was under the second clause. From the facts which cannot be disputed, there cannot be any doubt that the applicant has failed to maintain devotion to duty by submitting repeated applications for commuted leave from 19.7.1982 relying on the certificate dated 24.4.1982 which had become in-effective in view of

the fitness certificate obtained by him on 21.7.1982.
All this was unbecoming of a Government Servant also.

13. The charge regarding applicant's failure to maintain devotion to duty does not end there, but is in fact fortified by the evidence of Dr. Lankeshwar recorded during the departmental enquiry. In the record, there is a certificate issued by Dr. M.L. Lankeshwar, Civil Surgeon, of Thane dated 16.2.1984. The certificate is in a printed form and it shows that the applicant was carefully examined by the Civil Surgeon and found that he was suffering from Cervical Spondylosis and hence he considered that the period of absence from duty from 29.7.1982 to 16.2.1984 was absolutely necessary for restoration of his health. He was further advised a rest of two weeks from 17.2.1984. It appears that the applicant sent this certificate to his department with a copy to the Enquiring Officer who was holding the enquiry. It may be pointed out that the applicant was then posted at Panvel which is in District Raigad and he was residing at Nashik. He was never under the treatment of Dr. Lankeshwar, Civil Surgeon of Thane. We have already stated the contents of the certificate issued by Dr. Lankeshwar. It appears that after receiving his certificate the Enquiring Authority wrote a letter to Dr. Lankeshwar. To that letter Dr. Lankeshwar sent a reply dated 11th September, 1984 in which he clarified that the brother of the applicant who was a Deputy Director of Accounts and Treasury in Pune was his neighbour while he was posted at Pune. He used to see the brother on some occasions casually. About this certificate, he has stated that on 16.2.1984 when he was sitting in his office and while he was busy in his work the applicant

approached him. As he was very busy and as there was a rush of visitors and patients, he mistook the identity of the applicant and on his oral say he issued the certificate. He admitted that he had committed a mistake for which he tendered apology to the Commissioner of Income Tax. He also requested that the guilty one i.e., the applicant should be dealt with properly. The Presenting Officer also examined Dr. Lankeshwar in the departmental proceedings. During his examination he stated that he had never treated the applicant at Thane before 16.2.1984. To a subsequent question, he stated that he mistook the applicant as his regular patient as he resembled one of his regular patients. To another question he replied that "in retrospect, now I feel that Shri Adawadkar has taken advantage of this certificate which I have given in hurry". The applicant cross-examined Dr. Lankeshwar at length by asking more than 50 questions. Though some of the answers are favourable to the applicant if the whole deposition of Dr. Lankeshwar is considered, it leads to the inference that the applicant had obtained the certificate by taking advantage of his brother's acquaintance with Dr. Lankeshwar. When the applicant was under the treatment of the Civil Surgeon at Nashik, there was no reason why he should have rushed to Dr. Lankeshwar at Thane for a certificate. We have, therefore, no hesitation in holding that the applicant has not behaved properly in obtaining and producing the certificate of Dr. Lankeshwar dated 16.2.1984. We have also no doubt that the certificate was obtained fraudulently for meeting the charge in question and for extension of leave upto 7.3.1984.

14. We may also point out in this connection that the applicant has not examined himself as a witness to explain his defence. In view of the fact that he was relying on the certificate dated 24.4.1982 issued from the Civil Hospital at Nashik which was of no use in view of fitness certificate dated 21.7.1982 from the same hospital, we feel that the applicant should have examined himself and explained the circumstances why he had asked for leave from time to time. He was working as a responsible officer and it was unbecoming of him that he should have sent repeated applications for extraordinary leave by relying on the certificate which was of no use. He should have realised that the absence from duty must have caused inconvenience to the Department. We have read ~~it~~ and considered the impugned order dated 30.9.85, passed by the Disciplinary Authority i.e., Commissioner of Income Tax, Pune, and we are satisfied that he was fully justified in disagreeing with the findings of the Enquiring Authority in respect of charge no.3. The order of the disciplinary authority is well reasoned, and we find no reason to disagree with the views ~~there~~ therein. We may also point out that the view taken by him is very reasonable and impartial. If he so wanted, he could have very well taken a different view even in respect of some other charges because in our opinion the Presenting Officer had laid sufficient evidence which was neither rebutted nor explained by the applicant by examining himself as a witness.

15. Coming to the specific points which were urged before us by Mr. Singhvi, the learned advocate for the applicant, we find no substance in any of these points. The first point was that the finding of the disciplinary authority is perverse because there is no evidence to support

it. As already pointed out, even from the un-disputed facts and circumstances the charge deserves to be held proved. The evidence of Dr. Lankeshwar fully supports the charge. It is true that some of the answers given by him are favourable to the applicant, but his entire statement shall have to be considered without ignoring the letter sent by him to the enquiring authority. The circumstances that the applicant had to go to Thane for obtaining certificate, that too for the past period, while he was staying and probably taking treatment at Nashik creates strong doubts about his bona-fides.

16. The second point raised by Mr. Singhvi was that the disciplinary authority had no authority to rely on the statement of Dr. Lankeshwar. The applicant himself had produced the certificate or a copy of it before the enquiring authority. Obviously, it must be for meeting charge no.3. Hence the enquiring authority cannot be blamed for allowing the Presenting Officer to examine Dr. Lankeshwar. The applicant was cross-examined Dr. Lankeshwar at length. According to the law, the applicant himself ^{should} ~~should~~ have examined Dr. Lankeshwar as a defence witness. Hence we do not find any substance in the argument of Mr. Singhvi that the disciplinary authority was not justified in relying on the statement of Dr. Lankeshwar.

18 The third point of Mr. Singhvi was that the disciplinary authority has altered charge no.3 while holding it as proved. As we understood, it was the submission of Mr. Singhvi that the applicant is ~~held~~ ^{held} guilty by the disciplinary authority of obtaining a false certificate from Dr. Lankeshwar by suppressing facts

from him. On reading the order we find that the disciplinary authority has unambiguously held the applicant guilty of the charge as mentioned in Article 3 of the Memorandum dated 9.2.1983.

18. The fourth point of Mr. Singhvi was that charge No. 3 as it is, does not amount to mis-conduct. We have dealt with this point earlier by quoting Rule 3 of the CCS(Conduct) Rules.

19. The last point urged by Mr. Singhvi was that the penalty imposed upon the applicant by the disciplinary authority was in fact a multiple penalty and was disproportionate to the gravity of the charge. After considering the gravity of charge no. 3, in the light of the conduct of the applicant we do not think that the penalty imposed upon him is in any way disproportionate to the gravity of the charge. On the contrary we have a feeling that the penalty leans on the side of leniency. As for the alleged multiple nature of the penalty we find that major penalties include at item no.(VI) reduction to lower time scale of pay grade etc., as given in Rule 11 (eleven) of the CCS (CCA) Rules ^{and} permits the disciplinary authority to specify other consequences of such reduction.

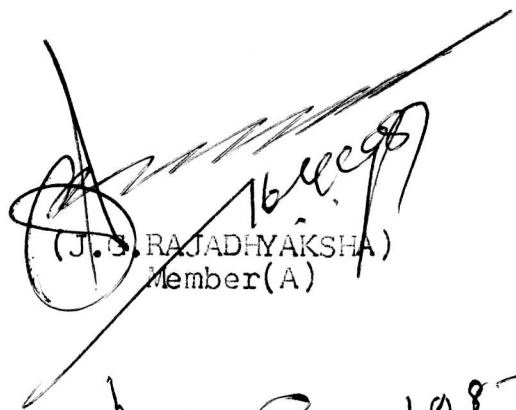
20. Lastly, Mr. Singhvi, has relied on some judgments. The first is Central Bank of India V. P.C. Jain, A.I.R. 1969 S.C., 983. That was a decision against the judgment of the Industrial Tribunal, Delhi. It is ~~not~~ held in that case that the Tribunal can disregard findings of the Enquiry Officer if they are perverse and the test of perversity is that the findings are not supported by any legal evidence at all. That judgment does not help the applicant because as we have pointed out, there is sufficient evidence on record to justify the finding of the disciplinary authority

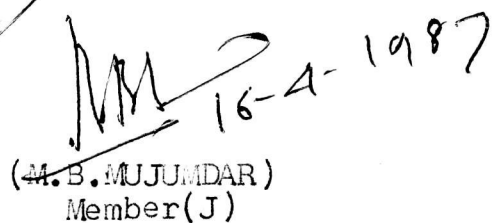
in respect of charge no.3. The second case relied upon by Mr. Singhvi is a judgment of the Calcutta Bench of the Central Administrative Tribunal in Kumari Ratna Nandy V. Union of India, 1986(2) Service Law Reporter, 273. In that case the Calcutta Bench of the Central Administrative Tribunal has held that the Enquiry Officer had wrongly allowed the Prosecutor to produce evidence by examining the witnesses who were not cited in the charge sheet and that amounted to denial of reasonable opportunity to the delinquent officer to ~~defend~~ defend ~~him~~ herself. While taking this view the Bench has relied on Rule 14(15) Central Civil Services (Classification, Control and Appeal) Rules, 1965. But this decision does not help the applicant in this case because in this case the applicant himself had produced the certificate of Dr. Lankeshwar to meet charge no..3. In fact it was not sufficient for him merely to produce the certificate, he should have examined Dr. Lankeshwar as his witness to prove the certificate. Hence by allowing the Presenting Officer to examine Dr. Lankeshwar as a witness, the Enquiring Authority has in fact favoured the applicant because the applicant could cross-examine him at length by asking about 50 questions. The last case on which Mr. Singhvi relied is a judgment of the Supreme Court in Rama Kant Misra V. State of Uttar Pradesh, 1983 SCC(L&S),26. In that case the applicant was serving in

the Kanpur Electric Supply Administration which was then a department of Government of Uttar Pradesh. He was dismissed from service after holding a departmental enquiry. The Labour Court upheld the order and the applicant's petition to the High Court under Article 227 also failed. In appeal, the Supreme Court reduced the sentence to withholding of two increments with future effect by pointing out that the penalty of dismissal from service was disproportionately excessive. There cannot be any dispute about the principle that the penalty has always to be proportionate to the gravity or seriousness of the misconduct. But this principle shall have to be applied by considering the facts and circumstances of each case. As we have already pointed out, the penalty imposed upon the applicant by the disciplinary authority in this case is quite reasonable and proper. On the contrary, as already pointed out, in fact it leans on the side of leniency, if the seriousness of the charge and the conduct of the applicant are taken into consideration. We have a feeling that the applicant is unduly more conscious of his rights than his duties and convenience or inconvenience of the department. We, therefore, find no substance in any of the points raised on behalf of the applicant.

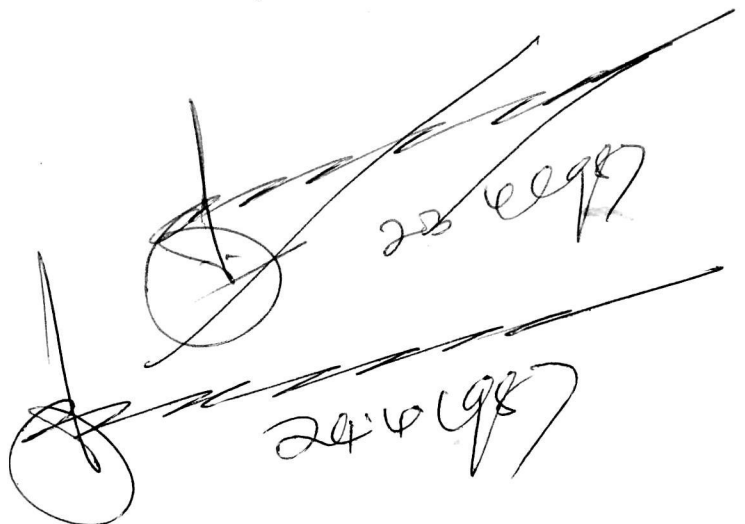
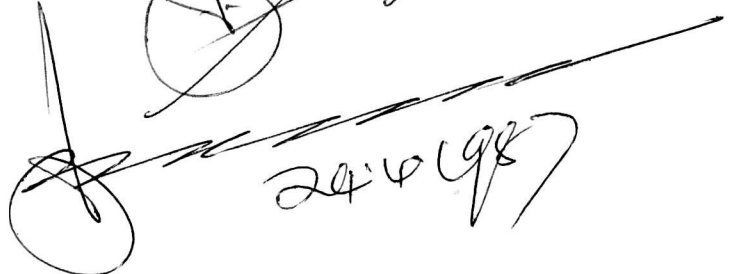
20. In the result the application is liable to be dismissed. After taking into consideration the facts and circumstances of the case we deem it necessary to saddle the applicant with the costs of the Respondents. We quantify the costs at Rs.1,000 which are nominal.

21. We, therefore, dismiss the application and direct the applicant to pay to the Respondents Rs.1,000 towards the cost of this case.


(J.B. RAJADHYAKSHA)
Member(A)


(M.B. MUJUMDAR)
Member(J)

Announced and delivered
in open Court today @
~~23rd April 1987~~ 24th April 1987


23/4/87

24/4/87