

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

OA. NO. 864/89

Shri Shridhar Janbaji Bagdey ... Applicant
V/S.

Union of India & Ors. ... Respondents

CORAM: Hon'ble Vice Chairman Shri Justice M.S.Deshpande
Hon'ble Member (A) Shri N.K.Verma

Appearance

Shri R.K.Lokhande
Advocate
for the Applicant

Smt. Indira Bodade
Advocate
for the Respondents

JUDGEMENT

Dated: 9-12-93

(PER: N.K.Verma, Member (A))

In this OA. the applicant who was a Station Superintendent at Chanda Fort Station has prayed for quashing the impugned order dated 9.5.1989 which is an appellate order under which he was punished with the withholding of increment for a period of one year with cumulative effect. As a result of his appeal to the appellate authority, the order of reversion was modified to that of withholding of increment for a year with cumulative effect. The applicant has also prayed for quashing the memorandum of charges and every other action taken thereon. *N.K.Verma*

2. The short facts of the case are that the applicant was punished with reversion to the next lower grade for a period of 3 years with immediate effect on 8.8.1988 as per the impugned charge-sheet issued to him on 31.3.1986. The applicant assailed that order in an OA. before this Bench

saying that he was not given a copy of the enquiry officer's report along with the order. This Bench was pleased to stay the operation of the order of penalty under its order dated 12.8.1988. Thereafter, the enquiry report was supplied to the applicant and he was again served with the punishment order of reversion. On an appeal to the appellate authority the order of reversion was modified to that of withholding of increment for a period of one year with cumulative effect.

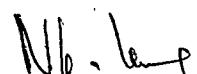
3. Shri R.K.Lokhande appearing for the applicant made the submissions that charges against the applicant was not precise and ^{Hope} which were denied by the applicant in toto. Besides, the order of punishment was grossly disproportionate to the nature of misconduct against the applicant. Then he also stated that natural justice ~~was~~ violated by the respondent's action in not supplying the enquiry officer's report before the order of imposition of penalty. Therefore the punishment order dated 4.7.1988 be quashed and set aside.

4. Mrs. Indira Bodade, counsel for the respondents brought to our notice that the applicant had filed OA.16/88 which was withdrawn by the applicant voluntarily and thereafter the appellate authority reduced the quantum of punishment from major penalty of reversion to a lower grade to a minor penalty of withholding of increment for one year with cumulative effect. The learned counsel for the respondents also brought to the notice that the application was pre-mature as the applicant had not exhausted the remedy of having the appellate order revised or reviewed by the appellate authority himself or an officer superior to him under the provisions of CCS(CCA) Rules, 1965. The question of the Tribunal going into the quantum of

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punishment at this stage did not arise. The enquiry was conducted as per the prescribed procedure and concluded after the direction of this Tribunal was complied with.

5. We have given careful consideration to the matter and arguments made by both the sides. The applicant had been punished with major penalty after supply of enquiry report. The punishment imposed upon him was modified by the appellate authority after taking into consideration all the relevant facts and circumstances. We are not persuaded to interfere in this order at this stage. The applicant has an opportunity of having this appellate order reviewed. Therefore this application is considered pre-mature and is dismissed without costs.


(N.K. VERMA)
MEMBER (A)


(M.S. DESHPANDE)
VICE CHAIRMAN

mrj.