

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH: :MUMBAI

ORIGINAL APPLICATION NO.699/2001

THIS, THE // TH DAY OF JUNE, 2003

CORAM: HON'BLE MR. JASBIR S. DHALIWAL MEMBER (J)
HON'BLE MR. S.K. MALHOTRA. MEMBER (A)

Amarchand D. Mehroliia,
Room No.1, Behind Cantt
Gen. Hospital, Followoer Lines,
Deolali-422 401.

.. Applicant

None

Versus

1. Regional Office,
Employees Provident Fund Organ.
341, Bhavishya Nidhi Bhavan,
Bandra (East), Mumbai-400 051.
2. Sub.Regional Office,
Employees Provident Fund Organ.
'Bhavishya Nidhi Bhavan',
Plot No. D-11, Near I.T.I.,
MIDC, Satpur, Nashik-422 007. .. Respondents

By Advocate Shri R.R. Shetty.

O R D E R

Hon'ble Shri J.S. Dhaliwal, Member (J)

The applicant Shri A.D. Mehroliia while working as Safaiwala under the respondents was served with a charge sheet dated 21.3.1997/11.4.97. The disciplinary enquiry proceedings under rule 10 of EPF Staff (CCA) Rules 1971 were held against him on the charges of being constantly absent from duty and also being habitually negligent in his duties. He was also charged for disobeying of the orders of his superior officers. On 29.7.97 during the proceedings of the enquiry he admitted all the charges levelled against him. He had admitted the charge of absence with an explanation as to



why he was compelled to be absent on account of his sickness. He produced medical certificate to support his claim. However, the same has not been accepted and copy of inquiry report was given to him on 11.11.98 for his comments / representation. In his representation he had assured the respondents that he will perform the duties in future vigilantly. However, he has been given an order dated 15.6.99 vide which he has been dismissed from service. He submitted a number of representations.

2. The applicant has challenged the order of punishment on the ground that he was not supplied with copy of daily order sheet of the inquiry proceedings. While giving the copy of inquiry report, no punishment was proposed, which is denial of justice. No evidence was led on the charge of his disobeying of the orders of the superior officers. The respondents had sent him for medical examination and Civil Surgeon declared him physically fit to resume duty. Claims that he did not declare that he was fit prior to that. He also stated that even if it is admitted that the charge is proved, the punishment imposed is excessive and disproportionate considering the alleged misconduct. He has thus prayed for a direction to the respondents to reinstate him in service after setting aside the order of Disciplinary Authority with all consequential benefits.

3. The respondents have filed detailed reply pleading that the applicant remained continuously absent

without permission since 09.12.1996 and was also found to be habitually negligent in performance of assigned duties. He admitted all the articles of charges as given in the charge sheet on 28.7.97 and thus, the same were held to be proved. The applicant had also filed an appeal dated 19.9.2000, but the same was found to be time barred. They have given in para 5 the details of period of absence indicating that these are absence for 196 days between 09.12.96 and 23.6.97, for 220 days between 01.3.98 and 06.10.98 and even thereafter on the dates mentioned in this paragraph. He was served with a number of memos calling for his explanation, to which he never filed any reply or explanation and was also served with letters of warning. Prior to his being continuously absent in 1996. He was allowed to resume his duty after getting medical opinion from the Civil Surgeon, Nashik and he appended his signature in attendance register for few days from 15.3.99 to 03.5.99 and remained absent himself from 04.5.1999 onwards. Applicant has filed rejoinder.

4. Finding that the applicant was absent today despite of our accommodation till 01.15 pm, we proceed under Rule 15 of CAT (Procedure) Rules, 1987. We have heard learned counsel for respondents and examined pleadings.

5. The law is now well settled that Tribunal considering challenge to disciplinary proceedings under

...4.





the relevant rules and consequential punishment order the power of judicial review by the very nature is very very limited. This court does not sit in the capacity of administrative appellate authority. We can interfere with the penalty order only if the inquiry proceedings have been vitiated by any one of the reasons like the proceedings are found to be in violation of statutory rules or if it is in violation of principles of natural justice. None of these grounds have been raised in the pleadings or brought to our notice. The courts can interfere only if the penalty order suffers from malafides. There is not even a whisper of that aspect in the present case before us. The court can also interfere if it is a case of no evidence. In the present case the applicant had clearly admitted all the allegations of misconduct levelled against him in the charge sheet served on him. Once the charged official accepts the allegation of misconduct as given in the charge sheet, there is no legal infirmity on the part of Inquiry Officer and Disciplinary Authority to hold that the charge stands proved. Considering the charge of remaining absent from duty in unauthorised manner without permission / leave for long period, disobeying the orders of his superior officers, being negligent in performance of duty, the challenge of the applicant to quantum of penalty is also found without any legal ground. The Tribunal cannot interfere with the quantum



of punishment imposed by the Disciplinary Authority particularly when the charge levelled against the applicant for a very long period of absence is proved. The court can interfere with the quantum of punishment, only if it shocks the conscience of the Tribunal. We do not find any such ground made out in the present case. As such it cannot be said that the punishment imposed is disproportionate to the charges levelled against the applicant.

6. For the reasons discussed above we find this OA is devoid of merit and is accordingly dismissed.


(S.K. MALHOTRA)
MEMBER (A)


(JASBIR S. DHALIWAL)
MEMBER (J)

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