

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE 12TH DECEMBER 1986

Present : Hon'ble Shri L.H.A.Rego .. Member(A)(R)
Hon'ble Shri Ch. Ramakrishna Rao .. Member (J)

Application No.1403/86(T)

Mohamed Burhanudd-In Khan
Junior Stenographer
Central Poultry Breeding Farm
Hesaraghatta 562 113
BANGALORE NORTH

.... PETITIONER

(~~Shri~~^{Dr} M.S.Nagaraja, Advocate)

Vs.

1. The Director
Central Poultry Breeding Farm
Hesaraghatta 562 113
BANGALORE.
2. The Joint Secretary-Cum-
Animal Husbandry Commissioner
Government of India
Ministry of Agriculture
Krishi Bhavan,
NEW DELHI.
3. The Secretary to the
Government of India
Ministry of Agriculture
Krishi Bhavan,
NEW DELHI.

.... RESPONDENTS

(Shri M.S.Padmarajaiah, Advocate)

The application has come up for hearing before this Tribunal. The Member, Shri L.H.A.Rego has made the following :

ORDER

In this application transferred under Section 29 of the Administrative Tribunals Act, 1975 (Act, for short) to this Bench, the applicant has challenged the

order dated 6.11.1981 (Annexure 'F') passed by the second respondent viz the Appellate Authority (AA) imposing the penalty of censure and has prayed that the period of his suspension from 25.6.1977 to 29.9.1980 be treated as duty, for all purposes and that he be granted such other relief as deemed just and expedient.

2. The facts relevant to the various contentions raised in this case are concisely as follows. The applicant entered service as Steno^{typist} on 28.7.1964, at the Regional Poultry Farm, Government of India, Hesaraghatta, Bangalore. At the material time, he was working as Junior Stenographer on a ~~quasi~~ permanent basis. This post is said to be in the feeder channel for promotion to that of Head Clerk. During 1976 and 1977, the applicant is said to have been assigned some of the duties of ~~the~~ Cashier, for administrative reasons, as an opportunity, to familiarise himself, with this type of work, so that this would stand him in good stead, for advancement of his career, in the channel of promotion to the post of Head Clerk. The applicant is seen to have accepted this duty and responsibility without demur.

3. However, on account of negligence in the duty assigned to him as above, he was placed under suspension with effect from 25.6.1977. A departmental enquiry (DE for short) under Rule 14 of the Central Civil

Services (Classification, Control and Appeal) Rules 1965 (Rules for short), was proposed to be held against him and a copy of the articles of nine charges, along with a statement of imputations of misconduct in support thereof, was furnished to him on 23.9.1977 (Annexure 'A'). These charges related to delay in the preparation of pay bills of gazetted officers; in the submission of weekly pendency statements and the monthly expenditure and revenue statement; in the disbursement of monthly salary of staff; in the remittance of advance unavailed of; in taking action on the import licence; in making payment for supplies received from private firms; in depositing in the banks, the amount of refund received and in remitting the amount of premium on LIC policies paid by the employees. He was also charged for insubordinate behaviour with his superiors.

4. On completion of the DE, the IO came to the conclusion in his Inquiry Report dated 21.5.1980 (Annexure 'E') and out of the nine charges five were proved, the last charge viz, Charge (ix) was a repetition and the remaining charges were not substantiated. The first respondent viz the Disciplinary Authority (^{DA}~~AD~~), by his order dated 29.9.1980 (Annexure 'D') imposed the penalty of withholding of two grade increments of the applicant, with cumulative effect.

5. The applicant preferred an appeal thereon, on 10.11.1980 (Annexure E), to the second respondent, viz, the AA, who by his order dated 6.11.1981 (Annexure 'F'), modified the penalty imposed by the DA, to that of mere censure, as he was of the view, that having regard to the

the circumstances of the case, the punishment meted out by the DA, was rather harsh and therefore warranted reduction.

6. The applicant filed a review petition thereon, to the President viz the Reviewing Authority, who confirmed, the modified punishment of censure imposed by the AA. This order of the Reviewing Authority, was received and acknowledged by the applicant on 27.1.1983. Yet aggrieved, the applicant filed a writ petition in the High Court of Judicature, Karnataka in 1984, which has been transferred to this Bench under the Act and is the subject matter of this application.

7. We have perused the pleadings and the documents on record and have also heard the arguments advanced by the learned counsel for both the parties. The learned counsel for the applicant contends, that the first respondent viz the DA, was not competent to initiate disciplinary proceedings against the applicant, under Rule 14 of the Rules, as also to impose the penalty under Rule 13 ibid; that none of the charges, stated by the I.O. to have been proved, related to work, legitimately expected of a Junior Stenographer and, therefore, penalising the applicant for alleged minor lapses in the discharge of additional duties assigned to him, for which he was neither qualified nor appointed, would be unfair and illegal; that the first respondent has deposed, that he did not notice any lapse or deficiency on the part of the applicant, as a Junior Stenographer, which aspect was not

considered in the appeal preferred by the applicant; that the DA accepted the report of the I.O. mechanically, without applying his mind, which has vitiated his order of punishment; that the order of the AA, is not a speaking one, which also therefore is vitiated; and that consequently, the entire proceedings culminating in the impugned punishment (Annexure 'F'), are against natural justice and are violative of the Rules and Articles 16 and 311 (2) of the Constitution of India.

8. Countering each of these contentions, the learned counsel for the respondents submits, that the first respondent, who is the Head of Office and the Appointing Authority, for the post of Junior Stenographer is also the DA, according to the Rule 12(3)(b) of the Rules and that according to Letter No.24-3/78 LD-II dated 1.3.1978 of the Union Ministry of Agriculture, the typographical error in its earlier letter was rectified, investing the first respondent with full powers, in respect of posts, for which he was the Appointing Authority and therefore, the first respondent was competent to initiate disciplinary action and impose all penalties stipulated in the Rules. We have ascertained the factual position and are satisfied that the first respondent did not act beyond his powers in this case.

9. Regarding the contention that the charges held to be proved against the applicant, by the first respondent,

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did not relate to work legitimately expected of a Junior Stenographer, the counsel for the respondents rebutted the same, on the grounds, that according to the recruitment rules then in force, the post of Junior Stenographer, was in the feeder channel for promotion to the post of Head Clerk and it was therefore but proper, that the applicant was afforded due opportunity to acquaint himself and gain experience in relevant spheres of work, as would qualify him for eventual promotion to the post of Head Clerk. The counsel buttressed his argument on the premise, that the applicant was well aware of the same and at no time, took exception to the duties allotted to him in this regard. While this argument seems facile, we would like to observe, that the very designation of the post held by the applicant at the material time, namely that of Junior Stenographer, implies that his principal duty was stenography, namely dictation and typing and perhaps custody of confidential service record. If at all, the applicant was to be grounded in matters relating to pay bills and accounts, he could have been appointed in the appropriate post and assigned this duty by a specific order, rather than saddle him with dual responsibility in addition to his legitimate duty as Junior Stenographer. But the applicant does not seem to have represented against the same. This apart, some of the charges levelled against the applicant, such as: abnormal delay in the remittance of advances unavailed of, cannot be said to be extraneous to his legitimate duty and for

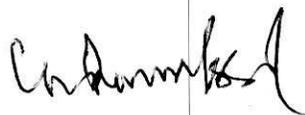
which he is clearly answerable. The second respondent, considering all these points and extenuating circumstances, has indeed taken a compassionate view, in minimising substantially, the punishment of stoppage of his grade increments with cumulative effect imposed by the I.O., to that of mere censure, even though five of the charges out of nine, were held as proved against the applicant.

10. We have carefully examined the charges framed against the applicant and the evidence adduced in support. We find in particular, that the applicant has not explained satisfactorily the rather abnormal delay, in remitting to Government, the advances unavailed of by him-vide Charge (iv), specially the Leave Travel Concession Advance. In fact, the applicant had to be repeatedly reminded to remit these advances. The applicant cannot therefore claim, that his conduct was without blemish and that he was wholly innocent of the charges framed against him. The other contentions raised by the applicant do not, in our view, merit consideration against the above background.

11. The applicant has prayed, that the first respondent be directed, to treat the period of suspension from 25.6.1977 to 29.9.1980, as duty for all purposes, and to pay him his salary and allowances in full, for this period. We notice, that the disciplinary proceedings took inordinately long i.e. over three years, to be finalised. The counsel for the respondents has not

pointed out to us, that this inordinate delay was due to dilatory attitude on the part of the applicant. Besides, in our view, the gravity of the charges framed against the applicant was not such, as to warrant his being placed under suspension and that too for a period of over three years, considering that the entire exercise has ended a whimper, with a mere censure being administered to the applicant on appeal to the A.A.

12. In the light of the above facts and circumstances, we are not inclined to interfere with the punishment of censure awarded by the Appellate Authority and confirmed by the Reviewing Authority, but direct the first respondent, to treat the period of suspension as duty, for all purposes and to pay salary and allowances in full to the applicant, during this period, less subsistence and/or other allowances, if any, paid to him for that period. No order as to costs.



MEMBER (JM)



MEMBER (AM)(R)

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