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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY

Original Application No.410 of 90:

Mr. B.L.D'Souza ... Applicant

vs.

Union of India & Ors. ... Respondents

CORAM : Hon'ble Member (J), Shri A.P.Bhattacharya
Hon'ble Member (A), Shri M.Y. Priolkar.

Appearances:

Shri M.S.Ramamurthy, Advocate,
for the applicant.

None present for the respondents.

JUDGEMENT:

Dated : 18.7.1990.

{Per. Shri A.P.Bhattacharya, Member (J)}

This application under Section 19 of the Administrative Tribunal's Act, 1985, has been filed by Shri B.L.D'Souza against the Union of India, represented by the Secretary, Ministry of Finance and three others.

2. The applicant joined service in the Central Excise Department at Bombay as ^a Lower Division Clerk on 17.4.1971. In 1974 he was promoted as Upper Division Clerk. On passing an examination he was appointed as Inspector (OG) in 1976. While working as Inspector (OG) he was not keeping good health and he proceeded to meet his wife at U.A.E. who was employed there as a Nurse. He was suffering from mental derangement and as such he could not give intimation to his office. He proceeded to U.A.E. in 1983 and returned to India in May, 1986 and reported for duty on 20.5.1986. After resuming duties

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he was served with a charge sheet, dated 21.7.1986. He ^{submitted} ~~furnished~~ an explanation to the charge sheet. On the conclusion of the enquiry the Enquiry Officer submitted the report to the disciplinary authority who, after accepting it, imposed a penalty on him by reduction of pay by one stage for a period of two years with effect from 1.1.1987, with cumulative effect. Thereafter, he was served with a memorandum, dated 6.3.1986, by which he was informed that the President had called for the records of the case for initiating revision proceedings against him. The applicant filed a representation. On 12.1.1990, the decision of the President was conveyed to him from which he came to know that a penalty was imposed on him dismissing him from service. The applicant challenges that order in this application. On a consideration of the material on record we are of the opinion that this application being devoid of merit cannot be admitted for hearing.

4. Admittedly the applicant was absent from his duties from March, 1983 to May, 1986. It is ~~this~~ admission in his application that in March, 1983 he started suffering from Schizophrenia and as such he proceeded to U.A.E. to meet his wife who was working as a Nurse there. On returning to India in May, 1986 he reported for duty on 20.5.1986. It appears from the record that on 2.7.86 a major penalty charge sheet was issued against the applicant. He submitted explanation to the charge sheet. After holding an enquiry the Enquiry Officer submitted a report accepting which the applicant's disciplinary authority imposed a penalty of reduction of pay by one stage for a period of two years from 1.1.1987. It was directed by the disciplinary authority that the applicant ~~will~~ ^{would} not earn increment of pay during the period of reduction and that on expiry of ~~this~~ ^{the} period.

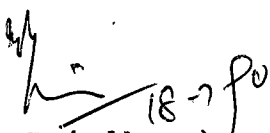


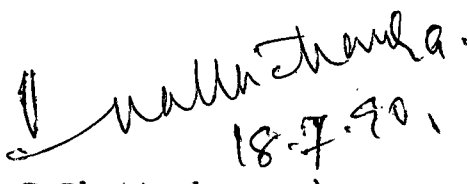
such reduction would have the effect of postponing of his future increments of pay. It is applicant's own version that on 6.3.86 the records of the case were called for by the President for initiating a revision proceeding. After considering his explanation the President passed an order on 12.1.90 (vide Annexure-D) by which he was removed from service. Annexure-G shows that with effect from 23.1.90 he was released from the post he held at that time. By this application the applicant has challenged the order passed in the name of the President. On a consideration of the materials on record we are constrained to hold that the applicant has no prima facie ^{case for} ~~charge~~ by which we can admit his case. The medical certificates produced by the applicant were at variance. In Annexure-E to the application the findings of the Union Public Service Commission in the matter had been annexed. From the said findings we find that after considering the facts and circumstances of the case the UPSC was of the opinion that the penalty of reduction of pay already imposed on the applicant should be modified to dismissal from service. On accepting the advice of the UPSC the President imposed the penalty of dismissal from service on the applicant. After considering the facts and circumstances of the case we find no reason to intervene in the matter. The applicant has not been able to establish prima facie that ^{at} the relevant time he was suffering from such a disease which did not enable him to send an intimation to the concerned authority about his alleged illness.

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The medical certificates filed by him from time to time do not support his case as mentioned in the application. Such being the position, we are constrained to hold that this application being devoid of merit is not at all fit for adjudication by this Tribunal and as such we dismiss ~~this application~~ ^{it} summarily.


(M.Y. Priolkar)
Member (A)


(A.P. Bhattacharya)
Member (J)