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CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

[REDACTED]
[REDACTED] BOMBAY BENCH

O.A. No. 809/90. 198
~~Ex. No.~~

DATE OF DECISION 9.10.1991

Shri K.T.Janbandhu. Petitioner

Shri N.L.Singh. Advocate for the Petitioner(s)

Versus

Secretary, Ministry of Agriculture, New Delhi. Respondent

Shri V.S.Masurkar. Advocate for the Respondent(s)


CORAM :

The Hon'ble Mr. Justice U.C.Srivastava, Vice-Chairman

The Hon'ble Mr. M.Y.Priolkar, Member(A).

1. Whether Reporters of local papers may be allowed to see the Judgement? M
2. To be referred to the Reporter or not? M
3. Whether their Lordships wish to see the fair copy of the Judgement? M
4. Whether it needs to be circulated to other Benches of the Tribunal? M

MOIPRRND-12 CAT/86-3-12-86-15,000


(U.C.SRIVASTAVA)
VICE-CHAIRMAN.

(9)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY.

Original Application No.809/90.

Shri K.T.Janbandhu.

... Applicant.

V/s.

Secretary,
Ministry of Agriculture,
Krishi Bhavan,
New Delhi.

... Respondent.

Justice

Coram: Hon'ble Vice-Chairman, Shri/U.C.Srivastava,
Hon'ble Member(A), Shri M.Y.Priolkar.

Appearances:-

Applicant by Mr.N.L.Singh,
Respondents by Mr.V.S.Masurkar.

Oral Judgment:

{Per Shri U.C.Srivastava, Vice-Chairman} Dt. 9.10.1991

The applicant who rose from the Inspector in the Directorate of Marketing and Inspection in the Ministry of Agriculture, which post he joined in August, 1960 to the post of ad hoc Director in the Directorate of Cotton Development in the Ministry and for the time being was also Member Secretary in the Indian Cotton Development Council has approached this Tribunal against a penalty awarded to him by the President compulsorily retiring him from service with further stipulation that 25% of the monthly pension otherwise admissible to him be withheld on permanent basis. The charge sheet dt. 24.5.1988 was served upon him and the imputation against him that while functioning as Director of the Directorate of Cotton Development, Bombay during the period in August, 1986, he went to Nagpur on an official tour to study the Kharif Crops Situation and he left Nagpur on 24th August, 1986 and arrived at Bombay on 25th August, 1986. Although he ~~had~~ did not travel

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by Ist Class he claimed in his T.A. Bill submitted for this journey for Rail was meant for Ist Class. Thus he made a false claim in T.A. bill for wrongful amount which he was not entitled to. The applicant prior to his charge sheet had deposited the said amount of Rs.406/- when he learnt that such an amount has been charged. He also made a reference to ticket number which was also not found correct. Before the Enquiry Officer the applicant submitted an application stating that it was only a bona fide mistake on his part and there was no mala fide or dis-honest intention to over charge the department for unlawful monetary gain and at the time he was undergoing acute mental agony due to his daughters prolonged sickness, the said error on ~~may~~ ^{his} part may be viewed in a proper perspective and pardon for the same may be granted. The applicant also addressed a representation to the Minister concerned who later on granted him an interview. The Enquiry Officer submitted his report and after submission of his report a penalty order was passed.

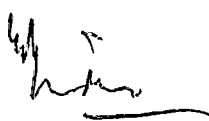
2. The counsel on behalf of the applicant contended that of course, the Disciplinary Authority wrongfully took this to be an admission on his part although there was no such admission and there were certain flaws in the inquiry, inasmuch as, opportunity to cross-examine the witnesses were not given. This was a simple case of over charging the amount and there was no denial of the fact that this amount was charged. The applicant deposited the said amount and what he contended was that he was under mental strain and that it was a bona fide error on his part. May be so, but the Disciplinary Authority could have taken action against the applicant

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because a mis-conduct had already been committed. It was within the hands of the Disciplinary authority to view the evidence so committed lightly or not. They could have condoned the mistake or they could have pardoned it, but they chose not to do so. The matter was referred to the Public Service Commission which also agreed with the recommendation so made.

3. As such in these circumstances it cannot be said that there was ~~any~~ defect in the inquiry or the punishing authority had acted in violation of any rule or it exceeded its jurisdiction, So far as the other part of the penalty of 25% cut in pension is concerned, it may be that under the Pension Rules the punishment could have been given. But neither in the charge sheet, nor at any point of time had the applicant was appraised with the fact that it was proposed not only to compulsorily retire him, but to cut his pension for all times to come and opportunity whatsoever, was given to the applicant for this punishment. Obviously, not only the principles of natural justice is violated but the powers have not been exercised in this behalf in a good faith and it can be said that there has been colourable exercise of the powers and accordingly the second part of the penalty i.e. cutting 25% of pension for all times to come is quashed. Otherwise, but for this modification the punishment order will stand. There will be no order as to costs.


(M.Y. PRIOLKAR)
MEMBER (A)


(U.C. SRIVASTAVA)
VICE-CHAIRMAN.

B.S.M.