

CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT MUMBAI

ORIGINAL APPLICATION No. 514/1992.

Date of Decision: 1.8.92

Shri S. P. Muthu,

Petitioner/s

Shri G. S. Walia,

Advocate for the
Petitioner/s

V/s.

Union Of India & Another,

Respondent/s

Shri N. K. Srinivasan,

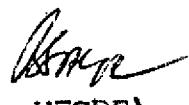
Advocate for the
Respondent/s

CORAM:

Hon'ble Shri B. S. Hegde, Member (J).

Hon'ble Shri M. R. Kolhatkar, Member (A).

- (1) To be referred to the Reporter or not ?
- (2) Whether it needs to be circulated to other Benches of the Tribunal ?


(B. S. HEGDE)
MEMBER (J).

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 514/92.

Dated this 1st the Friday day of August, 1997.

CORAM : HON'BLE SHRI B. S. HEGDE, MEMBER (J).

HON'BLE SHRI M. R. KOLHATKAR, MEMBER (A).

Shri S.P Muthu
C/o. Shri G.S. Walia,
Advocate,
16, Maharashtra Bhavan,
Bora Masjid Street,
Behind Handloom House,
Fort,
Bombay - 400 001.
(By Advocate Shri G.S. Walia)

... Applicant

VERSUS

1. Union Of India through
General Manager,
Western Railway,
Churchgate,
Bombay - 400 020.

... Respondents.

2. Sr. Divisional Accounts
Officer,
Bombay Division,
Bombay Central,
Bombay - 400 008.

(By Advocate Shri N.K.Srinivasan)

| ORDER |

| PER.: SHRI B. S. HEGDE, MEMBER (J) |

Shri G. S. Walia for the applicant and
Shri N. K. Srinivasan for the respondents. When the
case was called out, the Counsel for the applicant was
not present. However, after the case was heard, he
came and requested that his name be mentioned in the order
sheet. He was directed to submit his written arguments
but the same has not been submitted by him till the
pronouncement of the order.

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2. In this O.A. the applicant is challenging the impugned order dated 09.12.1991 and 06.04.1992 issued by the Disciplinary Authority and Appellate Authority respectively. The Disciplinary Authority vide its order dated 09.12.1991 after completion of the enquiry has imposed the punishment of stoppage of future two increments without cumulative effect. Against this order, the applicant preferred an appeal vide dated 10.02.1992. The Appellate Authority vide its order dated 06.04.1992 upheld the punishment imposed by the Disciplinary Authority. Thereafter, the respondents vide their letter dated 15.04.1991 informed the applicant as follows :-

"On reviewing the claim of honorarium for the month of August 190, while you were working here as Sr. Cashier No. 10/CPO-1367. It is noticed that you have not minused the cheque payment of Rs. 1,81,140.00 and claim the honorarium for the above amount which is incorrect, thus you have claimed Rs. 151.00 excess.

If you desire to see the honorarium statement please attend this office during office hours and meet the undersigned for the correctness of the statement.

In view of the above, you are required to submit your explanation within seven days from the receipt of this letter."

A reminder was again sent on 18.06.1991 stating neither he attended the office for the correctness of the claim nor submitted any explanation as required by the respondents. The applicant vide his letter dated 27.06.1991 indicated that he will attend the office during the second week of July 1991 and finalise the issue but he did not do so. Thereafter, an enquiry was initiated against the applicant on 20.09.1991

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and the applicant himself had given explanation and regretted very much for the lapses in claiming honorarium through an oversight. He had claimed honorarium for an amount of Rs. 1,81,140/- which was to be disbursed by cheque. Further, it is stated that he claimed honorarium for the period from April 1990 to September 1990 amounting to Rs. 7,709/- and the same has been passed for Rs. 7,452/- i.e. Rs. 257/- has been deducted from his claim. The mistake of Rs. 181/- could also have been deducted alongwith Rs. 251/-. In the enquiry it is also made out that the applicant has accepted his lapses and has also deposited the excess amount claimed by him, on 17.09.1991. As per the procedure in vogue, the applicant should have deposited the amount immediately on 15.04.1991 or soon thereafter when this irregularity was brought to his notice by the Deputy Commissioner on 15.04.1991. The applicant has neither annexed his representation nor any further correspondence in support of his contention that he is innocent. The charges levelled against the applicant has been proved and he has accepted the same and accordingly, he deposited the excess amount received by him.

3. In the light of the above, the short question to be considered is, whether the punishment imposed by the respondents could be set aside by the Tribunal if the enquiry initiated against him is in accordance with the rules. It is a well settled principle that imposition of penalty is the right of the Disciplinary Authority and the Tribunal

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has no power to direct the respondents to reconsider the matter. The matter has been considered by the Disciplinary Authority and the Appellate Authority, being fact finding authority, have exclusive power to consider the evidence with a view to maintain discipline. They are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct. The High Court/Tribunal while exercising judicial review, cannot normally substitute its own findings/conclusions on penalty and impose some other penalty.

4. In the result, we do not find any error apparent on the face of the record. As stated earlier, it is not for the Tribunal to see whether the penalty imposed is justified or not. Once it is found that the penalty ~~is~~ imposed^{is} after an enquiry and in accordance with the rules. Accordingly, we do not see any merit in the O.A. and the same is dismissed with no order as to costs.

M.R. Kolhatkar
(M. R. KOLHATKAR)

MEMBER (A).

B. S. Hegde
(B. S. HEGDE)

MEMBER (J).