

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

O.A. NO. 341/1997

This the 12th day of October, 2001.

HON'BLE SHRI S.L.JAIN, MEMBER (J)

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

S.V.Mamdapurkar,
Assistant Engineer B/R
MES-156035
Office of Garrison Engineer
(Naval Works), Kunjali,
Colaba, Mumbai-400005. ... Applicant

(By Shri S.P.Saxena, Advocate)

-versus-

1. Union of India through
Secretary, Ministry of Defence,
Sena Bhawan, DHQ PO,
New Delhi-110011.
2. Engineer-in-Chief,
Army Headquarters,
Kashmir House, DHQ PO,
New Delhi-110011.
3. Chief Engineer,
HQ Southern Command,
Pune-411001.
4. Garrison Engineer (NW),
MES, Kunjali (NW) Colaba,
Mumbai-400005. ... Respondents

(By Shri R.K.Shetty, Advocate)

ORDER (ORAL)

Hon'ble Shri S.L.Jain, Member (J) :

This is an application under Section 19 of the Administrative Tribunals Act, 1985 seeking quashing and setting aside of the punitive order dated 30.9.1989 and 27.1.1997 with a direction to the respondents to refix the

pay of the applicant correctly ignoring the penalty with consequential benefits.

2. The applicant was served with a chargesheet dated 17.2.1989. After an enquiry, the enquiry officer submitted his report holding the applicant guilty of one of the charges, i.e., charge No.2. The disciplinary authority accepted the enquiry officer's report and imposed a penalty of stoppage of one increment with cumulative effect upon the applicant. The applicant preferred an appeal against the said order of penalty which was rejected by the appellate authority vide order dated 27.1.1997. Hence, this OA.

3. Without going into the merits of the OA, we find that the penalty imposed by the disciplinary authority and affirmed by the appellate authority is one of "Stoppage of one increment with cumulative effect". The disciplinary authority and the appellate authority are competent to impose the penalties prescribed under Rule 11 of the CCS (CCA) Rules, 1965. After a careful perusal of Rule 11, we are of the considered opinion that such a penalty is not at all prescribed under the said Rule.

4. The learned counsel for the respondents argued that in such a case it must be deemed that the applicant's one increment is withheld till his retirement. It would mean withholding of one increment permanently, which is not permissible under Rule 11 of the CCS (CCA) Rules, 1965..

5. The authorities, i.e., the disciplinary authority as well as the appellate authority, are bound to specify the

period for which the penalty is to be operative. In this regard, D.G., P&T's letter No.6/4/55-Disc. dated 27.12.1965 is worth mentioning.

6. We have also come across a letter of the applicant dated 8.8.1988 (Ex.A-27 at page 65 of the OA). We observe that in case the respondents have not decided the request of the applicant contained in the said letter, they should take a decision in respect of the same within a period of one month from the date of receipt of a copy of this order, as the said request has material bearing to the charge levelled against the applicant.

7. In the result, the OA is allowed. Impugned orders dated 30.9.1989 and 27.1.1997 are quashed and set aside. The matter is remitted back to the disciplinary authority to consider the matter taking into consideration if any decision arrived in respect of the matter referred in para 6 of this order regarding awarding punishment to the applicant in accordance with law within three months from the date of receipt of copy of this order. This is a fit case where the applicant is entitled to costs quantified at Rs.1000/(Rupees one thousand) which shall be paid by the respondents within three months from the date of receipt of this order.

V.K.Majotra
(V.K.Majotra)
Member (A)

S.L.Jain
(S.L.Jain)
Member (J)

/as/