

C. A. T. Bench, JAIPUR

Date of Order	Orders
17/12/93	<p>CALLS AND REACHES PUTUP ON HEARING ON 20.12.1994</p>
	<p><u>B. O. M. S.</u> COURT MASTER</p>
20.4.94	<p>Mr. J. K. Kanchik - Counsel for applicant vs. Mr. S. S. Sanyal - Counsel for respondent</p>
	<p>The O.A. has been disposed of by a separate order which has been pronounced in the open court.</p>
	<div> <div> <p>(O.P. Sharma) MCA</p> </div> <div> <p>C. K. M. S. (Chopal Krishna) MCA</p> </div> </div>

O.A.No.833/92

Dt. of order: 20.4.1994

Shri Laxmi Narain

: Applicant

Vs.

Indian Council of Agricultural : Respondents
Research & Ors.

Mr.J.K.Kaushik

: Counsel for applicant

Mr.V.S.Gurjar

: Counsel for respondents

CORAM:

Hon'ble Mr.Gopal Krishna, Member(Judl.)

Hon'ble Mr.O.P.Sharma, Member(Adm.).

PER HON'BLE MR.GOPAL KRISHNA, MEMBER(JUDL.).

Applicant Shri Laxmi Narain has filed this application under Sec.19 of the Administrative Tribunals Act, 1985, praying that the impugned order dated 11.11.86 imposing the penalty of removal from service on him as also the appellate order dated 27.4.89 maintaining the said penalty and rejecting the appeal may be quashed and the respondents be directed to reinstate him in service allowing all consequential benefits.

2. We have heard the learned counsel for the parties and have gone through the records.

3. The applicant was holding the post of Mali in the office of the Director, Central Sheep & Wool Research Institute, Avikanagar, Distt.Tonk, when he had/victim of/mental disease during 1981 and/as his condition deteriorated, he could not attend his duties from 23.7.81. The applicant remained absent from duty unauthorisedly from 23.7.81 onwards for a period of more than 5 years and hence he was served with a charge sheet vide Annx.A-1 dated 29.8.86. The applicant is said to have admitted the charge where-upon the Disciplinary Authority inflicted the penalty of removal from service. The applicant preferred an appeal to the appellate authority but the same was rejected vide order dated 27.4.89 (Annx.A-2). The imposition of penalty of removal from service and the order of the Appellate Authority confirming the same have been challenged on the ground that no enquiry was made into the truth of the allegations against the applicant and that

the Disciplinary Authority based his findings on a mechanical application of Rule 12 of the CCS (Leave) Rules, 1972 that no leave could be granted for a period exceeding 5 years except by its sanction by the President. It is also urged that the appeal has been rejected without passing a speaking order.

4. On the contrary, the respondents contention is that since the appeal was decided on 27.4.89 and the decision was conveyed to the applicant on 13.5.89, the present application, having been filed on 4.6.90 i.e. beyond the period of one year from the date of the decision in the appeal, is barred by limitation. Further contentions of the respondents are that the applicant used to absent himself from duty without seeking ^{prior} permission from the concerned authorities and he had absented himself earlier also from 19.5.80 to 7.8.80 and 24.9.80 to 25.12.80 and that he had already admitted that he was a victim of ^a mental disease since 1975. The applicant had not furnished any evidence with regard to his mental sickness and therefore his absence from duty was unauthorised. It is pleaded by the respondents that the applicant had admitted the charges against him in his written statement of defence and the imposition of penalty was therefore based on his admission of guilt without holding a formal enquiry as envisaged by Rule 14 of the CCS (CCA) Rules, 1965.

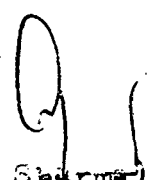
5. In so far as the plea as to limitation is concerned, the appeal made by the applicant was decided vide order dated 27.4.89 and it was communicated to the applicant vide memorandum dated 11.5.89 and it is said that that it was received by the applicant on 13.5.89. The learned counsel for the applicant makes an oral prayer for condonation of delay and in the circumstances, the delay if any in presenting the application taking into consideration the fact that the applicant had also filed a revision petition to the concerned authority, is hereby condoned.

6. It is pertinent to note that the alleged admission of the charge contained in the written statement of defence is not an unqualified admission of guilt as it also explains the circumstances in which the applicant had to remain away from duty. In our *Opinion*, the finding of the respondents was not justified and a

formal enquiry as prescribed in Rule 14 of the CCS (CCA) Rules 1965, should have been held. Since the order of removal from service was passed by the Disciplinary Authority without an enquiry under Rule 14 of the Rules having been held, the impugned orders are unsustainable and they are liable to be set aside.

7. In the result the order of the Disciplinary Authority dated 11.11.86 at Annex.A-1 imposing the penalty of removal from service on the applicant and the order of the Appellate Authority dated 27.4.89 (Annex.A-2) maintaining the said penalty are hereby quashed. The respondents shall now proceed afresh from the stage of issue of charge sheet by holding enquiry under Rule 14 of the Rules and shall take further necessary action thereafter in accordance with the Rules. The applicant shall be taken back in service but shall be deemed to be under suspension in view of the provisions of Rule 10(4) of the CCS (CCA) Rules till the finalisation of the disciplinary proceedings.

8. The O.A. stands disposed of accordingly with no order as to costs.


(O.P.Sharma)
Member(A).


(Gopal Krishna)
Member(J).