

J A I P U R.

O.A. No. 989/92

Date of decision: 26.8.94

DURGA LAL

: Applicant.

VERSUS

UNION OF INDIA & ORS

: Respondents.

Mr. J.K. Kaushik

: Counsel for the applicant.

Mr. Manish Bhandari

: Counsel for the respondents.

CORAM:

Hon'ble Mr. Justice D.L. Mehta, Vice-Chairman

Hon'ble Mr. O.P. Sharma, Administrative Member

PER HON'BLE MR. O.P. SHARMA, ADMINISTRATIVE MEMBER:

Shri Durga Lal has in this application prayed that the penalty of reduction of pay of the applicant by two stages in the Time Scale Rs. 2000-3200 for a period of two years with future effect may be quashed and further that the order dated 10.11.1987 of the Appellate Authority may also be quashed alongwith the entire disciplinary proceedings.

2. After major penalty proceedings were initiated against the applicant and he denied the charge, an enquiry was held. The Enquiry Officer held charge against the applicant as proved. Thereafter, the Disciplinary Authority vide order dated 27.4.87 (Annexure A-4) imposed the penalty of reduction in pay by two stages in the Time Scale Rs. 2000-3200 for two years with future effect. The applicant's appeal against this order was rejected by the Appellate Authority.

3. The applicant's grievance is that during the enquiry proceedings, the Enquiry Officer started examination of the defence witnesses in the first instance rather than starting the inquiry with examination of witnesses on behalf of the Disciplinary Authority. Further argument of the applicant is that there were two persons guilty of the same charge as framed against the applicant and the Enquiry Officer has given findings against the other

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persons also but penalty has been imposed on the applicant and thereby the applicant has been discriminated against. Finally, it was argued that even though the applicant had specifically asked for a personal hearing from the Appellate Authority, no such hearing was granted and the Appellate Authority disposed of the appeal of the applicant vide Annexure A-7 without granting a personal hearing to him.

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

5. The objection regarding the enquiry commencing with the examination of the defence witnesses was not raised by the applicant before the Enquiry Officer at the appropriate time. As regards another person being held guilty of the same charge as framed against the applicant, the Enquiry Officer's findings against him cannot be the basis for imposition of penalty on him because there were no disciplinary proceedings against him and he was not a party to the proceedings against the applicant. There is, however, since substance in the plea of the applicant that/he had specifically asked for personal hearing, it should have been granted to him by the Appellate Authority before disposing of his appeal.

6. In the circumstances of the present case, we set aside the order dated 10.11.87 (Annexure A-7) passed by the Appellate Authority with a direction that he shall decide the appeal of the applicant afresh, on all the points raised by him in appeal, after giving an opportunity of personal hearing to the applicant. A fresh disposal of the appeal shall be made by the Appellate Authority within a period of three months from the date of the receipt of a copy of this order.

7. The O.A. is disposed of accordingly, with no order as to costs.

(O.P. SHARMA)

Administrative Member

(D.L. MEHTA)

Vice-Chairman