

O.A.No.998/92

Dt. of order: 3.3.1994

P.C.Nawal

: Applicant

Vs.

Union of India & Ors. : Respondents

Mr.J.K.Kaushik : Counsel for applicant

Mr.M.Rafiq : Counsel for respondents

CORAM:

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

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

PER HON'BLE MR.O.P.SHARMA, MEMBER(ADM.).

Applicant P.C.Nawal has filed this application under section 19 of the Administrative Tribunals Act, 1985, wherein he has prayed that order Annx.A-1 dated 3.5.89 passed by the respondents No.2 by which he has reviewed his own order imposing minor penalty of with-holding of increment for one year may be quashed and the respondents may be restrained from further modifying or cancelling the order of penalty Annx.A-2 dated 31.3.89.

2. On conclusion of minor penalty proceeding against the applicant the disciplinary authority i.e. respondent No.2 imposed the minor penalty as follows on the applicant. "I order stoppage of one increment of the official for one year without cumulative effect at the stage of Rs.2480 in the scale of Rs.1640-60-2600-EB-75-2900." Thereafter vide memorandum dated 3.5.89, the disciplinary authority modified the operative part of the order at Annx.A-2 wherein he stated as under:

'The purport of the part of the orders .... "I order stoppage of one increment of the official for one year without cumulative effect at the stage of Rs.2450/- in the scale of Rs.1640-60-2600-EB-75-2900" is to stop one increment of the official for one year without cumulative effect at the stage raising the pay to Rs.2540/- from the stage of Rs.2480 in the scale of Rs.1640-60-2600-EB-75-2900".

3. On receipt of the order Annx.A-2, the applicant himself deposited with the concerned authorities an amount of Rs.735/- being the annual increment at the rate of Rs.60/- per month plus

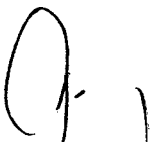
D.A. at appropriate rate, till the time he had drawn the increment raising his pay <sup>to</sup> Rs.2480/- and the D.A. thereon, from 1.6.88 to the date of imposition of penalty i.e. 31.3.89. The respondents however declined to accept the implementation of the order in the manner done by the applicant himself. In order Annx.A-1 dated 3.5.89, the disciplinary authority clarified that the purport of the operative part of the order dated 31.3.89 was to stop one increment of the applicant for one year at the stage raising the pay to Rs.2540/- from the stage of Rs.2480/-. The applicant is aggrieved by the order Annx.A-1 which according to him amounts to a review of the order passed earlier Annx.A-2.

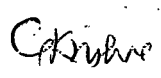
4. We have heard the learned counsel for the parties and have perused the records. During the arguments the learned counsel for the applicant drew our attention to the relevant provisions of Rule 130 of the P&T Manual Vol.III which debar a disciplinary authority from reviewing his own order. The learned counsel for the respondents has however stated that there was no review of the earlier order dated 31.3.89 (Annx.A-2) as such but the order Annx.A-1 dated 3.5.89 is only a clarification of the operative part of the order dated 31.3.89 (Annx.A-2).

5. We have considered the matter carefully. Rule 130 quoted by the learned counsel for the applicant no doubt bars a review of the penalty order passed by the disciplinary authority by the disciplinary authority himself. But it does not bar a correction of a mistake apparent there from, nor does any bar the issue of a clarificatory order with a view to properly implementing the operative part of the original order. The applicant had started drawing pay at the stage of Rs.2480/- from 1.6.88 by drawing an increment of Rs.60/- from that date. The penalty was imposed on 31.3.89. A minor penalty of this nature can be imposed only prospectively. The increment already drawn by the applicant on 1.6.88 could not have been affected by the penalty imposed on 31.3.89. Only the next increment due to the applicant i.e. from 1.6.89 could have been with-held. While the operative part of the order Annx.A-2 is not quite clear on the subject in

terms, yet intention to this effect is quite clear from the said order. Thus, the order Annx.A-1 stating that, that increment will be with-held which raises the applicant's pay from Rs.2480/- to Rs.3540/- is merely clarificatory in nature and is intended to ensure a correct and proper implementation of the order Annx.A-2. We, therefore, see no merit in the application. However, the applicant has already deposited the amount of Rs.735/- with the respondents. The applicant is entitled to refund of this amount. If the amount has already not refunded to him it shall now be refunded within a period of 3 months from the date of the receipt of a copy of this order.

6. Subject to the directions in para 5, the O.A. is dismissed with no order as to costs.

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

  
(Gopal Krishna)  
Member(J).