

33

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA.978/91

decided on : 14-12-94

Between

M.V. Subba Rao : Applicant

and

1. Chairman
Ordnance Factoyr Board
10-A, Auckland Road
Calcutta-1

2. The Ordnance Factory Board
Rep. by the Secretary
10-A, Auckland Road
Calcutta-1

3. The General Manager
Ordnance Factory Project
Eddumailaram 502205
Medak District : Respondents

Counsel for the applicant E.Y. Suryanarayana
Advocate

Counsel for the respondents M. Kesavarao,
SC for Central Govt.

CORAM

HON. MR. JUSTICE V. NEELADRI RAO, VICE CHAIRMAN

HON. MR. R. RANGARAJAN, MEMBER (ADMN.)

O.A. No. 978/91

O R D E R

(As per Hon'ble ~~Sri~~ Justice V. Neeladri Rao, V.C.)

The material portion of the Charge Memo dt.5-8-86 issued to the applicant who was then working as Temporary Supervisor 'B' (Tech) is as under:

"WHEREAS Shri M.V. Subba Rao, Ty. Supervisor 'B' (Tech) was charge-sheeted under Rule 14 of the CCS (CCA) Rules 1965 vide memorandum at ref (1) above for (1) Violent and unruly behaviour inside office during working hours (2) Use of abusive and objectionable language and (3) Conduct unbecoming of a Government Servant. "

The Enquiry Officer held that the charge was not proved. But the Disciplinary Authority (R-3) held that the charge was proved and passed order dt.5-8-86 ordering withholding of increment for a period of three years with cumulative effect as punishment. The same was confirmed by R-2 by order dt.21-5-90. Thereafter, the applicant filed revision before R-1. When the same was not disposed of ~~within~~ ^{within} after expiry of six months from the date of filing of the revision, this O.A. was filed on 16-10-91.

2. It is stated that Sri A. Shekhar, Draughtsman had come to the seat of the applicant on 2-7-86 and questioned him about the incident which ^{was} said to have

P.J.

taken place on the previous night at the residence of the applicant. Then there was some altercation and hence this Charge Memo dt.5-8-86 was issued to the applicant.

3. One of the contentions for the applicant is that the order dt.1-12-86 issued by R-3 is vitiated as no show cause notice was given by R-3 before passing that order, when he deferred from the finding of the Enquiry Officer. But the contention in regard to the ~~but to be~~ same is negative in view of the latest judgement of the Apex Court, reported in 1994 (27) ATC 834 STATE BANK OF INDIA V/s S.S. KOSHAL.

4. The other contentions for the applicant are that the punishment imposed is highly excessive for the following mitigating factors were not taken into consideration.

(i) No action was taken against Sri Shekhar even though the incident on 2-7-86 had taken place as Sri Shekhar had come to the seat of the applicant, and

(ii) The Enquiry Officer held that there was no incident at the residence of the applicant on the earlier night as alleged by Sri Shekhar.

5. It is not mere withholding increment for three years. It is a case of ordering it with cumulative effect. It has naturally affected the quantum of pension of the applicant. Further, it cannot be stated



at all

that Sri Shekhar was not ~~the~~ blameworthy even assuming that the applicant was more aggressive than the applicant. One may react strongly if false allegation is made against him. When it is stated that the allegation made by Sri Shekhar was not established, it is a case of false allegation against the applicant because of which he could not have controlled. Of course, on that basis it cannot be stated that the applicant is not guilty, for being an officer, ^{he} who had to maintain decency and decorum, and the disturbance in his section would naturally affect the atmosphere in the other sections. Thus, we feel that the disciplinary authority rightly held on the basis of the material on record that the applicant was guilty of charge.

6. But as it is a case where the applicant reacted only in view of the false allegation of Sri Shekhar, and as no action was taken against Sri Shekhar who was also blameworthy, the ^{Some} ~~above~~ should have been taken as mitigating factors. If it were to be a mere case of withholding three increments without cumulative effect, the contentions that it is excessive, could not be upheld. But as neither the Disciplinary Authority nor the Appellate Authority had taken the mitigating/extenuating factors into consideration and if they have so taken, the punishment imposed had to be held as highly excessive, we feel it a proper case to set aside the ^{appellate authority to the extent of confirmation of punishment} order of punishment and remit it to R-2-~~to~~ the Appellate

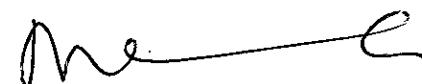


Authority for consideration in accordance with law
and by keeping in view the observations herein.

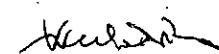
7. The revision petition filed before R-1 against
the order dt.21-5-90 of R-2 stands lapsed as per ~~the~~
Sec. 19(4) of the A.T.Act.

8. In the result, the order dt.21-5-90 of R-2 to the
extent of confirming punishment imposed by R-3 is set
aside. The matter is remitted to R-2 for consideration
afresh in regard to the punishment to be imposed in
accordance with law by keeping in view the observations
in this order.

9. The O.A. is ordered accordingly. No costs. /

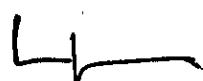


(R. Rangarajan)
Member (A)



(V. Neeladri Rao)
Vice Chairman

Dt. 14-12-94
Open Court Dictation


Deputy Registrar (P) CC

To

1. The Chairman, Ordnance Factory Board,
kmv 10-A, Auckland Road, Calcutta-1.
2. The Secretary, Ordnance Factory Board,
10-A Auckland Road, Calcutta-1.
3. The General Manager, Ordnance Factory Project,
Eddumailaram 502205, Medak Dist.
4. One copy to Mr.Y.Suryanarayana, Advocate, CAT.Hyd.
5. One copy to Mr.M.Kesava Rao, Addl.CGSC.CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

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21/12/94

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE V.NEELADRI RAO
VICE-CHIEF JUDGE

AND

THE HON'BLE MR.R.RANGARAJAN : M(AKH)

DATED: 14-12-1994

ORDER/JUDGEMTN:

M.A./R.A/C.A.No.

in

O.A.No. 978/91

T.A.No. (w.p.)

Admitted and Interim directions issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn

Dismissed for default.

Ordered/Rejected

No appeal

No order as to costs.

