

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH :
AT HYDERABAD.

O.A. NO.1489 OF 1994.

Date of Order- 1st September, 1997.

Between :

N.R. PAL Applicant

And

1. Union of India, represented by its Secretary, Ministry of ...
2. The Director General, Electrical & Mechanical Engineering, Army Headquarters, New Delhi-110011.
3. The Commandant, Military College of ...
P.O. Trimulgherry, Secunderabad.

..... Respondents

Counsel for the Respondents:-Mr. N.R.Devaraj, Sr.CGSC.

Coram :

The Hon'ble Mr. R. Rangarajan, Member (Admn.)

O R D E R
(As per Hon. Mr.B.S.Jai Parameshwar, Member (Judl.))

1. Heard Mr. K. Sudhakara Reddy, learned counsel for the applicant and Mr. N.R. Devarai, learned counsel for the respondents.
2. This is an application under Section 19 of the Administrative Tribunals Act. The application was
3. The applicant herein is working as a Lecturer in Metallurgy in the Military College of Electronics and Mechanical Engineering, Secunderabad. He was selected to that post

by the U.P.S.C. The applicant appears to have had some grievance regarding the work entrusted to him and the work which was expected to be discharged or performed by him in accordance with his educational qualification. In that connection, the applicant appears to have submitted certain representations to the higher authorities. This conduct of the applicant in submitting the representations did not relish the superior officers. Hence he was served with a Charge Memo dated 16.9.91. In that Memo,

it was stated as follows :-

" That the said Shri Nalini Ranjan Pal, while functioning as a permanent Lecturer in MCEME, Secunderabad during Aug 86, Feb 87, July 88, May 89 and Feb 90 committed an act of disobedience of rules/instructions and unbecoming of a Government servant by forwarding copies of this applications to higher authorities in contravention of the instructions contained in Rule 31(iii) of CCS(Conduct) Rules, 1964."

statement dated 15.10.91 and denied the charges. The disciplinary authority was not satisfied with this explanation. Hence a detailed inquiry was conducted into the said charge. On 18.4.92 the Inquiry Officer submitted his report. A copy of the report of the Inquiry Officer was furnished to the applicant. The applicant submitted his explanation to the report of the Inquiry Officer.

4. The disciplinary authority after considering the report of the Inquiry Officer and the explanation of the applicant, by its order dated 24.5.93 imposed

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the penalty of reduction of pay of the applicant by two stages for two years without having any postponement of future increments after expiry of aforesaid two years period. Paras-5 and 6 of the order dated 24.5.93 are reproduced herein below :-

" AND WHEREAS, the President, after carefully considering the Inquiry report and the representation of Shri Pal thereon agrees with the findings of the Inquiry Officer that charge levelled against Shri Pal is proved.

NOW THEREFORE, the President, in exercise of the powers conferred upon him hereby imposes the penalty of "Reduction in pay by two stages for two years without having any postponement of future increments after expiry of aforesaid two years period." "

5. Against the said imposition of punishment, the applicant submitted a revision petition dated 1.12.93. The revisional authority by its order dated 26.5.94, rejected the revision petition and confirmed the punishment. We reproduce herein below paras-3 and 4 of the order dated 26.5.94 :-

" AND WHEREAS, the President has considered the 'Revision Petition' of Shri N.R.Pal in the light of facts and circumstances of the case and is of the opinion that Shri N.R.Pal has reiterated the same points which he had raised of the penalty. Therefore, the 'revision' petition of Shri N.R.Pal lacks substance."

NOW THEREFORE, the President in exercise of the powers conferred upon him under Rule 29 of the CCS(CC&A) Rules, 1965 hereby rejects the said "Revision Petition" of Shri N.R.Pal, Lecturer and confirms the penalty imposed upon him."

The applicant has filed this O.A. challenging the orders dated 24.5.93 and 26.5.94 passed by the disciplinary and revisional authorities.

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6. The applicant has challenged the impugned orders on the grounds that the charge levelled against him is vague; that the disciplinary authority has not extracted any objectionable or slanderous or defamatory portion in the representations to the higher authorities; that he resorted to the said procedure since there was no response from the concerned authorities for his representations; that he has not committed any misconduct; that his main aim was to bring to the notice of the to teach in the college; that the authorities attempted to allot some more subjects like Machine Drawing, and he had no alternative than to refuse to teach in him was only to humiliate him.

7. A counter has been filed narrating the circumstances under which the inquiry was initiated against the applicant and also stating that during the inquiry every opportunity was given to him to establish his innocence and adhered to principles of natural justice.

8. The main contention of the applicant is that rules; that there is no prohibition for an employee to submit representations to the higher authorities; since the concerned authorities failed to take action on his he submitted representation to higher authorities; representations/ that his representations were routed through proper channel; that he had not used any slanderous only tions; as his object was to highlight his grievances to the authorities; that he was not being entrusted with the work in accordance with the qualifications he had.

9.* We are conscious of the limitations of this Tribunal in the matters relating to the disciplinary proceedings. Powers of the Tribunal are very much limited. The Tribunal cannot reappreciate the evidence and come to a different conclusion. The Tribunal cannot interfere with the punishment. The Tribunal as observed by the Hon'ble Supreme Court of India in the case of B.C. Chaturwedi vs. Union of India (reported in AIR 1996 SC 484) is only to see whether the principles of natural justice were adhered to during inquiry punishment.

10. We are constrained to observe that in the instant case, the disciplinary authority and the concerned authorities have not taken into consideration any of the hearing, the learned counsel for the applicant submitted a copy of the defence statement dated 15th October, 1991 filed by the applicant denying the charge and also a copy of the revision petition dated 1.12.93 filed by him against the imposition of penalty.

11. We have extracted above the relevant portions of the orders passed by the disciplinary disciplinary authority has to take into consideration whether the appreciation of evidence by the Inquiry Officer was proper, whether the findings arrived at by him were based on legal evidence; and whether the Inquiry Officer had afforded the delinquent employee the fullest opportunity to avert him. These are the three basic ingredients that are required to be noticed by the disciplinary authority before accepting or

be said that the disciplinary authority is entitled to reject the report of the Inquiry Officer outright. The disciplinary authority is entitled to take a contrary view than the view taken by the Inquiry Officer. Here in this case, the disciplinary authority has just cryptically stated that he had agreed with the findings of the Inquiry Officer. We feel that the disciplinary authority must have stated certain reasons though not elaborately as to how it took the decision to agree

12. The order of the revisional authority is not in any way different from the order passed by the disciplinary authority. The revisional authority has not at all taken pains to ascertain whether the disciplinary authority applied its mind before imposing the penalty on the applicant. The revisional authority has not gone through the order passed by the disciplinary authority. The revision petition revisional authority has not even considered a single ground raised by the applicant in his revision petition. When that is so, it is impossible for this tribunal to come to the conclusion that the authorities had applied their mind before passing the impugned orders.

13. The applicant in his revision petition has challenged the disciplinary proceedings conducted by that mere submission of his representation to the higher authorities in advance cannot be interpreted to have approached the higher authorities ignoring his immediate official superior; that the Inquiry Officer failed to notice the distinctive feature of submitting

a representation "in advance" to the higher authorities and submitting a representation "directly" to the higher authorities ignoring the immediate official superior; that the Inquiry Officer failed to note the circumstances under which he was made to submit the 'advance copies' of his representations to the higher officers; that submission of advance copies of representations to the higher authorities cannot be regarded as a misconduct under the relevant conduct rules; that a grave injustice had been done to him by the College in asking him to impart education in certain subjects which he was not at all conversant; that the College authorities failed to note the educational qualification he had acquired at the time of recruitment and that he could have been asked to impart education in the subjects in which he was trained and studied; that the College authorities forced him to undergo humiliation and severe mental torture; that the Inquiry Officer failed to consider his explanation by simply observing that as 'unacceptable'; ~~that the Inquiry Officer failed to classify what were the portions in his representations which could be considered as slanderous or objectionable or defamatory or otherwise;~~ ~~and that the Inquiry Officer failed to consider his~~ defence in proper perspective.

14. These various contentions have been ignored even by the disciplinary authority and the revisional authority. The Full Bench of this Tribunal in the (reported in (1993)88 SLJ 100 (FB)) while interpreting the Rule 16(x) of the Delhi Police Punishment and Appeal Rules 1990 stated in this behalf that the disciplinary authority after receipt of the report of the Inquiry Officer. The Hon'ble Full Bench

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the show cause notice for awarding a punishment of dismissal from service must fail and the order of disciplinary authority dated 10.9.87 must be quashed."

xxx xxxxx "

The principle enunciated by the Full Bench in the case cited above is applicable on all fours and that can be taken note of by the disciplinary authority in a disciplinary proceeding.

15. We have extracted above the orders of the disciplinary and revisional authorities only to show at all that they have not applied their mind to the facts of the case. We feel it proper to refer to the

Tribunal in the case of A.S.Murthy vs. Station Director,

12 ATC 388). Their Lordships observed what a speaking order reads as follows :-

Convert "an order" into a speaking order. What makes a speaking order is the genuine application of mind of the authority to the appeal and then deciding the question raised thereto with reasons for the same. The substance of the order and not its form is decisive to decide whether an order is a speaking order."

case, we are constrained to observe that both the impugned orders are not speaking orders as such.

16. Hence, we feel it proper to set aside the order dated 26.5.96 passed by the revisional authority and to direct the said authority to consider afresh on merits taking note of the grounds raised by the applicant in his revision petition and also the observations made by us in the course of the order.

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17. Thus, we pass the following order :-

(a) The order dated 26.5.94 passed by the revisional authority is hereby set aside.

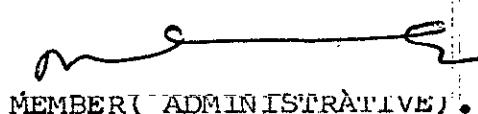
(b) The revisional authority is directed to dispose of the revision petition dated 1.12.93 on merits taking note of the various contentions raised by the applicant in his revision petition and following the observations made by us in course of this order.

(c) The revisional authority shall dispose of the revision petition of the applicant within three months from the date of receipt of the copy of this order. In case, the applicant desires to be heard in person, the revisional authority shall grant the same.

The O.A. is accordingly disposed of. No order as to costs.


MEMBER (JUDICIAL).

1.9.97


MEMBER (ADMINISTRATIVE).

Dated the 1st September, 1997.


DJ/

affd
12/9/97

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TYPED BY
CHECKED BY
SIGNED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN : M (M)

AND
THE HON'BLE SHRI B.G.JAI PARAMESHWAR :
(M) (J)

Dated: 1-9-97

M. A. / P. A. / P. A. M. D.

in
C. O. NO. 140 477

Issued

Allowed
Subject to your directions

Dismissed

Rejected

Dismissed for Default

Ordered/Rejected
no order is to costs.

YLKR

II Court

केंद्रीय प्रशासनिक अधिकारण
Central Administrative Tribunal
प्रिवेट/DESPATCH

11 SEP 1997

हैदराबाद न्यायपीठ
HYDERABAD BENCH