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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

R.A. 3/2000
In
O.A. 1372/99

Date: 4.2.2000

Between:

I. Sambasiva Rao

.. Applicant

A N D

The Director,
Defence Electronics
Research Laboratory,
Chandrayanagutta,
Hyderabad ~~xxxxxxx~~.

El. Response n 3

The Director General,
Research Development Organisation,
Directorate of Personnel DHQ P.O.
New Delhi.

.. Respondents

Counsel for the applicant : Mr.K. Venkateswara Rao

Counsel for the respondents : Mr. V. Vinod Kumar

Coram:

Hon. Shri R. Rangarajan, Member (A)

Hon. Shri B.S. Jai Parameshwar, Member (J)

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R.A. 3/2000
in
O.A. 1372/96

Date:

O R D E R

(Per Hon. Shri B.S. Jai Parameshwar, Member(J))

Heard Mr. K. Venkateshwara Rao, learned counsel for the applicant and Mr. V. Vinod Kumar, learned standing counsel for the respondents.

2. The applicant in the OA has filed this application praying to review the order dt. 28-4-99 passed in OA 1372/96. By the said order we dismissed the application.

3. The applicant has prayed for review of the order on the following grounds :

(a) That dismissal of C.A. No.15160/89 by the Hon. Supreme Court amounts to that Director of DERL is not competent to impose any of the penalty. The ^{dismissal of the} application filed by U.O.I. to review the order in C.A. 15160/89 has the effect of setting aside the order passed on merits by Hon. Supreme Court of India in Civil Appeals No. 1210-1217/89.

(b) Even though the disciplinary authority has cited as many as 33 witnesses to be examined in the charge memo only 9 witnesses were examined; and

(c) Persons who were charged with similar misconduct were let off with minor penalties.

4. We take up the first contention of the applicant. It is to be noted that the Hon. Supreme Court has dismissed CA No.15160/89 in limine. The Hon. Supreme Court has not considered any of the facts and circumstances of the case. In fact the applicant had raised this contention as the principal contention to set aside the punishment imposed by the

respondent authorities. We considered this aspect in greater detail in paras 36 to 40 of the order. Having heard the learned counsel for the applicant we are not persuaded to take a different view from what we have expressed in those paras. Besides the applicant was a party to the decision in CAS 1210-127/89. When he himself took a decision to the effect that Director of DERL is the competent authority to impose the punishment then any subsequent decision which is not on merit by the Supreme Court of India may not have any binding force. Hence we reject this contention.


5. The second contention of the applicant is that even though 33 witnesses were cited in the charge memo only 9 witnesses were examined. It is for the disciplinary authority to substantiate the charge ^{of misconduct} ~~mem~~ by examining the ^{witnesses} ~~charges~~ cited in the charge memo. It is not the quantity of the evidence that is material but ^{the} quality of the evidence. The charge against the applicant was that he had supplied essential certificates to the employees of the DERL to enable them to claim reimbursement of medical expenses. Even one witness to support the charge then that is enough. Therefore non examination of all the witnesses cited in the charge memo is not a defect which can be considered in a review application.

6. The last contention of the applicant is that persons who were charged with similar misconduct were let off with minor penalty. Time and again the Hon. Supreme Court has held that it is the wisdom and discretion of the disciplinary authority that plays ^{the} major role in imposing the proper punishment. The disciplinary authority has to take into consideration the gravity of the misconduct and take proper ^{decision to} ~~discipline~~ ^{impose punishment} ~~disciplinary action~~. The Court or Tribunal has no say

in the matter. In that view of the matter we cannot consider this as a proper ground to review the order on the ground that certain other officials who were charged with similar misconduct were let off with minor penalty. This ground appears to us to be vague as no clear instance has been brought out in the application. Hence all the three grounds ^{are} raised by the applicant/considered by us.

7. We find no error apparent on the record warranting a review of the order.

8. In that view of the matter the RA is dismissed.


(B.S. JAI PARAMESHWAR)
Member (J)

MD

4/2/2003


(R. RANGARAJAN)
Member (A)

By
assess