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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.414/96

Date of Order : 6.11.96

BETWEEN :

D.Bansidhar

.. Applicant.

AND

1. The Manager (P&A),
Nuclear Fuel Complex,
ECIL PO,
Hyderabad-62.

2. The Chief Executive,
(Appellate Authority),
Nuclear Fuel Complex,
ECIL PO,
Hyderabad- 62.

.. Respondents.

Counsel for the Applicant

.. Mr.K.Sudhakar Reddy

Counsel for the Respondents

.. Mr.V.Rajeswara Rao

CORAM:

HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

HON'BLE SHRI B.S. JAI PARAMESHWAR : MEMBER (JUDL.)

J U D G E M E N T

X Oral order as per Hon'ble Shri B.S.Jai Parameshwar, Member (Judl.) X

Heard Mr.K.Sudhakar Reddy, learned counsel for the applicant and Mr.V.Rajeswara Rao, learned standing counsel for the respondents.

2. For certain act of proved misconduct on the part of the applicant, R-1 by his order d.18.5.1995 imposed the penalty which reads as under:-

"Now, Therefore, the undersigned in exercise of the powers conferred under clause (b) of sub-rule (2) of Rule 12 of CCS (CCA) Rules, 1965, read with DAE Order No.1/6/(1)/94-Vig/395 dated 24.11.94 hereby imposes the penalty of reduction of pay by three stages from Rs.1530- to Rs.1440/- in the

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scale of pay of Rs.1320-1560-EB-40-2040 for a period of two years with immediate effect on the said Shri Bansidhar, Tradesman 'D', EC No.3154, MTP. It is further directed that Shri Bansidhar will not earn increments of pay during the period of reduction and that on the expiry of this period, the reduction will not have the effect of postponing his future increments of pay".

3. Against the said order the applicant preferred an appeal to the appellate authority. While concurring with the view of the disciplinary authority, the appellate authority imposed the punishment. The operative portion of the order of the Appellate Authority reads as under:-

"Now, therefore, the undersigned in exercise of the powers conferred under sub-rule (2) of Rule 27 of CCS(CCA) Rules, 1965 read with DAE Office Order No.1/6(1)/94-Vig./395 dt. 24.11.1994, hereby confirms the penalty of "reduction of pay by three stages for a period of two years imposed on Shri D.Bansidhar Tradesman 'D', EC No.3154, MTP".

4. Now, it is the contention of the learned counsel for the applicant that the punishment imposed by the authorities amounts to a major penalty as can be seen from R-3. It is stated by the applicant that during the enquiry the Inquiring Authority followed the procedure prescribed for imposing a minor penalty. Thus it is his contention that the authorities imposed the major penalty ~~without following the rules~~.

5. As against this, the learned counsel for the respondents contended that the punishment inflicted on the applicant by the Respondents 1 and 2 amounted to only a minor penalty in view of the exhibits R-2 and 3 (notification dated 3.7.92 and 26.5.92).

6. In the notification issued on 26.5.92 (R-3) the Government has clarified as under:-

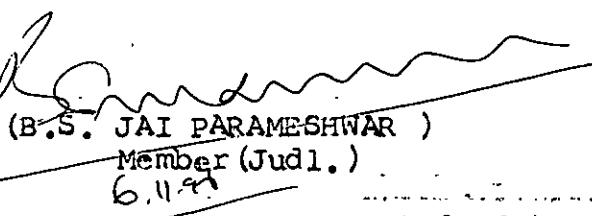
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"In Rule 11 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 under the heading "Major Penalties" for clause (V), the following clause shall be substituted, namely :-

"(V) Save as provided for in clause (iiia), reduction to a lower stage in the time scale of pay for a specified period, with further directions as to whether or not the Government servant will earn increments of pay during the period of such reduction and whether on the expiry of such period, the reduction will or will not have the effect of postponing the future increments of his pay".

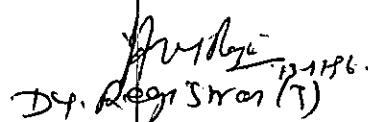
7. After going through the records, we are unable to reconcile with the orders of the respondents 1 and 2 and we cannot come to any definite conclusion as to the nature of penalty imposed on the applicant.
8. Therefore, we feel it proper to direct the respondents to pass a clear and explicit order imposing proper penalty. In view of the circumstances referred to above, the orders of the disciplinary and the appellate authority are hereby set aside. A fresh order adhering to the rules and also adhering to the words used in the penalties as given in Chapter-11 may be issued.
9. With these observations, the OA is disposed of.
No costs.


(B.S. JAI PARAMESHWAR)
Member (Jud1.)
6.11.96


(R.RANGARAJAN)
Member (Admn.)

Dated: 6th November, 1996

(Dictated in Open Court)


Dr. Regis Shon T
11/11/96

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Copy to:-

1. The Manager(P&A), Nuclear Fuel Complex, ECIL PO.
2. The Chief Executive, (Appellate Authority), Nuclear Fuel Complex, ECIL PO, Hyd.
3. One copy to Sri. K.Sudhakar Reddy, Advocate, CAT, Hyd.
4. one copy to Sri. V.Rajeshwara Rao, Addl. CGSC, CAT, Hyd.
5. One copy to Library, CAT, Hyd.
6. One spare copy.

Rsm/-

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Typed By
Compared byChecked By
Approved byTHE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABADTHE HON'BLE SHRI R.RANGARAJAN: M(A)
Hm Mr B.S. Joshi *parmeshwar m(3)*DATED: 6/11/86ORDER/JUDGEMENT
R.A./C.P./M.A. NO.in.
O.A. NO. 414196ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS.

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II COURT

