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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION 1150 OF 2000

| 99.

DATE OF ORDER: 25.8.2000

Between

M.K.Devaiah

.....APPLICANT

AND

1. Union of India Rep. by its Secretary,
Ministry of Labour, Deptt. of Employment & Trg.,
New Delhi.
2. Directorate of General Employment & Training,
Joint Secretary to Govt. of India, Sram Shakti Bhawan,
Rafi Marg, New Delhi-1.
3. Director, Advanced Training Institute,
Vidyanagar, Hyderabad.

..... RESPONDENTS

Learned Counsel for the applicant : Mr.N. RamMohan Rao

Learned Counsel for the respondents : Mr. V. Rajeshwar Rao, SC

CORAM

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

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

(Order per Hon'ble Shri B.S.JAI PARAMESHWAR, Member(J)

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(Order per Hon'ble Shri B.S. JAI PARAMESHWAR , MEMBER(J))

Heard Mr. Siva learned counsel for the applicant and Mr. V.Rajeshwar Rao learned counsel for the respondents.

2. While the applicant was working as UDC in the office of Advanced Training Institute , Vidyanagar, Hyderabad, he was issued with a charged memorandum dated 3.4.97(A.I) alleging certain financial irregularities and stating that he lacks devotion to duty.

3. An inquiry was conducted into the mis-conduct and inquiry officer submitted his report. The applicant submitted a representation against the findings recorded by the Inquiry officer. The disciplinary authority , by his order No. I/AO/Cash/96/524 dated 3.3.1998 imposed a penalty of compulsory retirement from service on the applicant.

4. Against the said penalty order, the applicant submitted an appeal dated 29.3.1998

5. The appellate authority considered only one ground raised by the applicant in the appeal and relying upon the decision of the Hon'ble Supreme Court in the case of State Bank of Patiala Vs. Shri S.K. Sharma, rejected the said representation and dismissed the appeal.

6. The applicant has filed this application challenging the order dated 3.3.1998 passed by R-3 and also the order dated 20.1.1999 passed by the R-2 as illegal, arbitrary and violative of articles 14 & 16 of the Constitution of India and direct the respondents to reinstate the applicant into service as Upper Division Clerk with all consequential benefits .

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7. The respondents have filed a reply.

8. The contention advanced by the learned counsel for the applicant is that the appellate authority has not considered all the grounds raised in his appeal and has taken a sole ground for consideration. Thus, he submits that the order of the appellate authority cannot be said to be a speaking order. He has further stated that the appellate authority ought to have considered all the grounds raised in the appeal and should have taken a practical decision in the matter. There is a force in the contention of the applicant. The appellate authority has to consider and decide the appeal under Rule 27(2) of the CCS(CCA) Rules. It has powers to confirm, enhance, reduce or to set aside the penalty and to remit back to the disciplinary authority with such directions as it may deem fit. The appellate authority is the final arbiter in disciplinary proceedings. When that is so, we feel the appellate authority has not decided the appeal in proper perspective. In our considered view, the decision cited by the appellate authority places a check on the High Court/Tribunal exercising power under Article 226 and 227 of the Constitution of India. The appellate authority is ^a statutory authority. It cannot shut its eyes and allow any irregularity or illegality in the conduct of disciplinary proceedings.

9. We feel that the appellate authority is not justified in taking sole ground to reject the entire appeal. The applicant was compulsorily retired from service and he had raised certain grounds against the penalty order. We feel that the appellate authority should have considered the appeal in accordance with the rule 27(2) of the CCS CCA Rules, 1957.

10. Hence we feel it proper to set aside the order dated 20.1.1999 passed by the appellate authority and remit the matter to appellate authority to consider the appeal dated 29.3.98 afresh.

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11. Hence the following directions are given:-

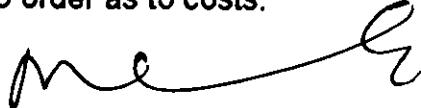
- (a) The order dated 20.1.1999 is hereby set aside.
- (b) The appellate authority , namely, the R-2 shall consider the appeal dated 29.3.98 in accordance with the rules within a period of 2 months from the date of receipt of a copy of this order.
- (c) Before deciding the appeal, the appellate authority shall give an opportunity of personal hearing to the applicant.

12. The OA is accordingly, disposed of. No order as to costs.


(B.S.JAI PARAMESHWAR)

MEMBER(J)

25.8.00


(R.RANGARAJAN)
MEMBER(A)

DATED: 25TH AUGUST, 2000
DICTATED IN OPEN COURT

Asl



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH:HYDERABAD.

~~1ST AND 2ND COURT~~

COPY TO

1. HDHNS
2. HARN (ADMN.) MEMBER
3. HBSJP (JUD L.) MEMBER
4. D.R. (ADMN.) ✓
5. SPARE ✓
6. ADVOCATE
7. STANDING COUNSEL

THE HON'BLE MR. JUSTICE D.H. NASIR
VICE-CHAIRMAN

THE 'HON'BLE MR.R.RANGARAJAN:
ME. MBR (AD MN.)

THE HON'BLE IR. B. S. JAI PARAMESHWAR
MEMBER (JUD. L.)

DATE OF ORDER: 25/8/2000

MB/RA/CP.NO.

IN
OA. NO. 1150/2908

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

C. P. CLOSED

R.A. CLOSED

~~DISPOSED OF WITH DIRECTIONS~~

DISMISSED

DISMISSED AS WITHDRAWN

ORDER/REJECTED

NO ORDER AS TO COSTS

