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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

J A I P U R.

O.A. No. 73/93

Date of decision: 29.6.1994.

MAHESH CHAND

: Applicant.

VERSUS

UNION OF INDIA & ORS

: Respondents.

Mr. Ashok Verma

: Counsel for the applicant.

Mr. V.S. Gurjar

: Counsel for the respondents.

CORAM:

Hon'ble Mr. Justice D.L. Mehta, Vice-Chairman

Hon'ble Mr. O.P. Sharma, Administrative Member

PER HON'BLE MR. O.P. SHARMA, ADMINISTRATIVE MEMBER:

Shri Mahesh Verma has filed this application U/S 19 of the A.T. Act, 1985 praying that the order dated 12.2.92 passed by D.E. 10B alongwith the initial order and the entire proceedings taken against him may be quashed and the respondents may be directed to grant increment withheld in the year 1984 to the applicant with interest @ 24% per annum. He has further prayed that the adverse entry made in his ACR as a result of initial order dated 27.9.84 be quashed.

2. At the outset, the learned counsel for the applicant has stated that he would not press the relief regarding expunction of adverse entry and he would take appropriate action in this regard separately.

3. On 8.5.84, a communication was given to the applicant regarding certain adverse entries made in his ACR. The applicant submitted an appeal dated 18.6.84 against the adverse entries. The respondents took the view that this communication was in fact a piece of correspondence addressed by the applicant to an authority higher than his immediate superior authority directly and thereby ^{he} did not maintain discipline. On this ground, minor penalty proceedings under CCS (CCA) were initiated against the applicant by memorandum dated 9.7.1984 (Annexure A-3). On conclusion of these proceedings, an

order imposing minor penalty of withholding of the next increment due to the applicant for a period of one year without cumulative effect was passed, vide Annexure A-6. The applicant is aggrieved by the said order imposing minor penalty on him.

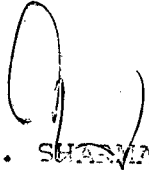
4. Initially, the applicant's counsel had taken objection to the competence of the authority concerned to issue the charge-sheet and to impose the minor penalty, as aforesaid. However, during the arguments, the learned counsel for the applicant did not press this point.

5. As regards the merits of the case, we have gone through Annexure A-7, which is the communication addressed by the applicant to the Divisional Engineer (Phone)(9), DMT Office, Jaipur, against the adverse entry recorded in his ACR. This letter is itself superscribed as appeal. We fail to understand how this letter can be taken as anything other than an appeal preferred by the applicant against the adverse entries made in his ACR. This appeal has been made directly by the applicant to the appellate authority. We do not see anything wrong in the applicant's submitting the appeal directly to the appellate authority, particularly, when he has also endorsed a copy thereof to the authority who has recorded the adverse remarks.

6. In the facts and circumstances of the present case, we find the minor penalty proceedings initiated against the applicant were on wholly unjustified grounds, as a person aggrieved by adverse remarks is entitled to prefer appeal to the authority competent to take a view about the maintainability or otherwise of the adverse remarks. The disciplinary proceedings initiated against the applicant vide order dated 9.7.1984 (Annexure A-3) and order passed on the conclusion of these proceedings by Annexure A-6 imposing penalty of withholding of next increment on the applicant are quashed, with consequential benefits.

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7. The O.A. is allowed accordingly, with no order as to costs.



(O.P. SHARMA)
Administrative Member



(D.L. MEHTA)
Vice-Chairman