

(4)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

J A I P U R.

O.A. No. 437/92

Date of decision: 8.7.1994

P.N. CHAUDHARY

: Applicant.

VERSUS

UNION OF INDIA & ORS : Respondents.

Mr. J.K. Kaushik : Counsel for the applicant.

None present on behalf of the respondents.

CORAM:

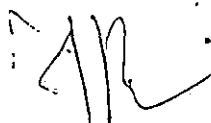
Hon'ble Mr. Justice D.L. Mehta, Vice-Chairman

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

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

Shri P.N. Chaudhary has filed this application u/s 19 of the A.T. Act, 1985 praying that the order dated 8.4.87 (Annexure A-10) imposing penalty of compulsory retirement on the applicant and the order dated 25.10.88 (Annexure A-12) passed by the Appellate Authority confirming the penalty of compulsory retirement be quashed and the penalty imposed be set aside with consequential benefits.

There was an allegation against the applicant who was working as Light Vehicle Driver at Atomic Power Project Rawalbhata that on 2.4.83 he had, while entering the premises of the Project, refused to make an entry in the register maintained at the gate and had threatened the security staff and had misbehaved with them. After that, he was asked to explain his misconduct vide Annexure A-1, dated 4.4.83 and he gave his explanation vide Annexure A-2. A formal charge-sheet under Rule 14 of the CCS (CCA) Rules, 1965 dated 25.6.83 (Annexure A-3) was issued to the applicant. In this charge-sheet, there was an additional charge that he had passed derogatory remarks in respect of Chief Administrative Officer at the time of said incident. An inquiry was held and the charges against the applicant were held as established. The Disciplinary Authority vide order dated 8.4.1987 (Annexure A-10) imposed on the applicant the penalty of compulsory retirement. The applicant preferred

.../2


(5)

an appeal (Annexure A-11) against the said order. The Appellate Authority vide order dated 25.10.1988 (Annexure A-12) upheld the penalty imposed on the applicant.

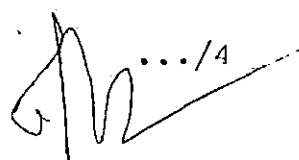
3. During the course of arguments, the learned counsel for the applicant stated that while the statements were said to have been recorded from witnesses on 4.4.83 regarding the occurrence of the incident, on one of the statements, the date on the top is 4.4.83 whereas the date at the bottom of the statement is 13.4.83. This shows that this statement was a fabrication. He added that in fact, no register had been maintained at the gate which the applicant was required to sign and further there was no question of any incident having occurred. He also stated that the charge regarding misbehaviour with the superior authority was not there in the memorandum dated 4.4.83 issued to the applicant immediately after the alleged incident took place. Therefore, this part of the charge was, in any case, is an after thought. Finally, he stated that the Appellate Authority while passing the order has not given his specific findings in respect of three requirements mentioned in Rule 27(2) of CCS(CCA) Rules, 1965. He relied upon the Judgment of the Hon'ble Supreme Court in the case of Ram Chander Vs. Union of India, AIR 1986 SC 1173, to argue that it was a mandatory requirement for the appellate authority to give his findings on the three requirements mentioned in Rule 27(2) of the CCS (CCA) Rules, 1965.

4. We have heard the learned counsel for the applicant and have gone through the records.

5. The contention that the statement of a witness recorded before the formal proceedings were instituted which begins with the date 4.4.83 and ends with the date 13.4.83 is a fabrication is not tenable. Merely because for some reasons, two different dates have been mentioned, the statement does not become fabrication. The evidence

regarding the maintenance of the register at the date and creation of an unruly scene of the applicant is available from the statements of other witnesses as well. The point that in the original show-cause notice issued to the applicant, there was no mention about the derogatory remarks by the applicant against the superior authority, is correct. However, there was oral evidence in support of the charge presented during the inquiry, on the basis of which the Inquiry Officer held this charge also as proved. We do not sit as an appellate authority to re-appraise the evidence and come to our own conclusion as to whether the charges against the applicant are proved or not. Therefore, we will not interfere with the report of the Inquiry Officer or the order of the Disciplinary Authority.

6. However, there is substance in the argument of the learned counsel for the applicant that the appellate authority has not given his findings on the three requirements mentioned in Rule 27(2) of the CCS (CCA) Rules, 1965. The three aspects on which the appellate authority is required to give his findings are; whether the procedure laid down in the rules has been complied with; whether the findings of the Disciplinary Authority are warranted by the evidence on record; and whether the penalty imposed is adequate, inadequate or severe. It is necessary for the appellate authority to give his specific findings on each of these requirements while passing order, in view of the Judgment of Hon'ble Supreme Court in Ram Chander's case, wherein they were dealing ^{with} analogous provisions in Railway Servants (Discipline & Appeal) Rules. We accordingly set aside the order of the Appellate Authority and remit the matter to him to pass a fresh speaking order, after complying with the requirements of Rule 27(2) of the CCS (CCA) Rules, 1965, within a period of three months from the date of

.../4


receipt of the copy of this order. We, however, make it clear that the order of the Disciplinary Authority has not been quashed by us.

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

(O.P. SHARMA)
Administrative Member

(D.L. MEHTA)
Vice-Chairman

Section
General Administrative
JAIPUR BLANCH, JAIPUR

4050
25-7-24
Mr. Manish Rhandani (Advocate)
S-7, Peeyushpath,
Bapu Nagar,
Jaipur

Shree