

THE CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH, JAIPUR

ORDER SHEET

R. APPLICATION NO.: 9/2003 [OA 192/2001]

Applicant (s) U.O.

Respondent (s) Prem Prakash Tiwari

Advocate for Applicant (s)

Advocate for Respondent (s)

NOTES OF THE REGISTRY

ORDER OF THE TRIBUNAL

6.5.2003.

By Circulation.

The applicant seeks review of the order dated 21st of March, 2003, whereby, the O.A. No. 192/2001 was partly allowed and while up-holding the findings of the Disciplinary Authority and that of the Appellate Authority that the charges had been found established, the order of removal was set aside and the matter was remitted to the Disciplinary Authority for imposing appropriate penalty.

2. It is averred that the respondents counsel had submitted written arguments on 18th February, 2003 yet, it has been stated in the order dated 21st March, 2003 that written arguments had not been filed by the respondents. It is further stated that the penalty imposed by the Disciplinary Authority was appropriate and in order to maintain discipline, the penalty should be allowed to stand.

3. It is seen that the arguments in the O.A. were heard on 10th February, 2003. Both the learned counsel had submitted that they would file written arguments. It was directed that the applicant's counsel would file written arguments by 14th February, 2003 and written arguments would be filed by the other side by 20th February, 2003.

4. When the judgement was dictated to the Private Secretary, only the written arguments filed on behalf of the applicant were available. No written arguments, said to have been filed by the other side, were on the file.

5. Keeping in view the facts stated in the Review Application, Shri Mahesh Kumar Meena, Court Officer, was called, who stated that Shri N.C. Goyal, had submitted written arguments on 18th February, 2003 but, he could not make entry on the file

as the same was with the Private Secretary. He also says that he forgot about the written arguments and did not send the same to the Private Secretary for which he begged pardon.

6. It is a fact that no note was recorded by the Office that the written arguments had been filed by the respondents counsel when the judgement was dictated in the case. The judgement was pronounced on 21st March, 2003 on my next visit to Jaipur. Even on that date, I was not informed that the written arguments had been submitted on behalf of the respondents.

7. In any case, I have gone through the written arguments. No new fact is stated in the written arguments with regard to the quantum of penalty. It may be stated that the O.A. has been dismissed on merits and the matter has been remitted only on the question of quantum. Therefore, even if the written arguments had been placed before me, there was no occasion to take a view different than the one taken in the order.

8. A matter can be reviewed only when it is shown that the error committed in the decision is plain and simple. In this case, it is not the stand of the respondents that an error has been committed in the judgement while narrating the facts. What is stated is, that written arguments had been filed yet in the order it was stated that no written arguments had been filed. It is seen that the fact was stated in the order as written arguments were not placed on the file.

9. In any case, there is nothing in the written arguments on which different view could be taken in the order dated 21st March, 2003 on the quantum of penalty.

10. No case of review is made out. The Review Application is dismissed.

11. Before parting with the case it may be stated that in the instant matter there was no adverse effect on the order when

QMS ✓

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written arguments submitted by counsel for the respondents were not placed on the file. But, certainly, a mistake was committed by the Office in this regard. For future, it is directed that utmost care should be taken in dealing with such matters. Whenever, written arguments/papers are filed, the fact should be recorded on the ordersheet. If the file is under dictation, a request should be made to Hon'ble the Vice Chairman or the Hon'ble Member, to hand-over the file for recording a note of filing the written arguments/papers. Deputy Registrar to issue directions/instructions in this regard.


(G.L.Gupta)
Vice Chairman

Hon'ble Sh. H.O. Gupta, Adm. Member


6/5

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note 988,980
dt. 7.5.03