

(B)

In The Central Administrative Tribunal

Jaipur Bench, Jaipur

OA./TA/MP No.

..... Versus

Date of Order	Orders
7/5/02	<p>Counsel for applicant..... S. L. P. P. Mathur Counsel for respondent..... D. N. Mehta Adjourned on request of Counsel for applicant/ Counsel for respondent Put up on..... 14/5/02 Admission/Direction/Hearing By Order Court Officer 7/5/02</p>
14-5-2002	<p>Mr. P. P. Mathur - Counsel for the applicant The OA has been disposed of by a separate order, which has been dictated in the open court</p> <p style="text-align: right;">(H. O. GUPTA) ADMINISTRATIVE MEMBER</p>

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

JAIPUR

Date of order: 14.5.2002

OA No.209/2002

Lal Chand Jonwal s/o Shri Kushal Ram r/o Quarter No. 7/1,
Maharaja Land, Near Ummed Palace, Kota.

.. Applicant

Versus

1. Union of India through Secretary, Ministry of Defence, Southern Block, Sena Bhawan, New Delhi.
2. The Engineering Chief, Army Headquarters, Kashmir House, Rajaji Marg, District Headquarters, P.O. New Delhi.
3. The Chief Engineer, Head quarters, Southern Command, Pune - 411 004.

.. Respondents

Mr. P.P.Mathur - counsel for the applicant.

CORAM:

HON'BLE MR. H.O. GUPTA, MEMBER (ADMINISTRATIVE)

O R D E R (ORAL)

PER HON'BLE MR. H.O.GUPTA, MEMBER (ADMINISTRATIVE)

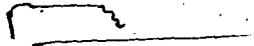
The applicant is aggrieved of the order dated 21.3.2002 (Ann.A2) passed by the Disciplinary Authority whereby a penalty of withholding of two increments for two years with cumulative effect has been imposed on the applicant based on the chargesheet dated 4.2.2002 (Ann.A1) issued under rule 16 of the C.C.S. (C.C.A.) Rules, 1965,



2. Heard the learned counsel for the applicant at length. The contention of the learned counsel for the applicant is that having issued a chargesheet under rule 16 of the C.C.S. (C.C.A.) Rules, the authority could not impose the penalty of withholding of increments with cummulative effect, since the said penalty imposed is a major penalty. If the major penalty was to be imposed, they should have issued chargesheet under rule 14 of the C.C.S. (C.C.A.) Rules, 1965 and thereafter conducted the inquiry as per laid down procedure. His contention is that under rule 11 of the C.C.S. (C.C.A.) Rules, 1965 one of the major penalty is withholding of increments. According to him, the Disciplinary Authority is not aware that this minor penalty of withholding of increment can only be imposed without cummulative effect. He further contended that the penalty, so imposed with cummulative effect, will have a permanent effect on the applicant and, therefore, such penalty is not a minor penalty and cannot be imposed based on the chargesheet under rule 16 of the C.C.S. (C.C.A.) Rules. In support of his contention, he has relied on the Hon'ble Apex Court's judgment in Kulwant Singh Gill v. State of Punjab, 1991 Supp (1) SCC 504.

3. From the record, it appears that the applicant has not exhausted the remedy available to him by way of appeal to the Appellate Authority. Let the applicant avail the statutory remedy available to him and take all these pleas before the Appellate Authority. Accordingly, this OA is disposed of at the stage of admission itself with a direction to the applicant to file an appeal to the Appellate Authority within three weeks from today.

alongwith copy of this order and by Speed Post to avoid delay. In the event the applicant complies with this order, the respondents are directed to ensure that the appellate Authority passes a reasoned order within 4 weeks from the date of receipt of the appeal of the applicant and inform the applicant promptly. The Appellate Authority shall not take the plea of limitation, if any.


(H.O.GUPTA)

Member (Administrative)