

Central Administrative Tribunal
Jabalpur Bench

OA No.1095/04

Bilaspur, this the 28th day of July, 2005.

C O R A M

Hon'ble Mr.M.P.Singh, Vice Chairman
Hon'ble Mr.Madam Mohan, Judicial Member

Venugopalan Nair.G.
S/o Late Shri T.P.Gopalan Nair
Senior Accountant
O/o the AG(A&E)
53, Arera Hills, Hoshangabad Road
Bhopal.
R/o E-37, Minal Residency, Phase-II
J.K.Road, Govindpura
Bhopal.

Applicant.

(By advocate Shri Sajith Akhtar)

Versus

1. Union of India through
The Secretary
Comptroller & Auditor General of India
New Delhi.
2. The Comptroller & Auditor General of India
(Revisionary Authority)
10, Bahadur Shah Zafar Marg
New Delhi.
3. The Principal Accountant General (A&E)
M.P.(Appellate Authority)
Lekha Bhawan, Jhansi Road
Gwalior
4. The Senior Deputy Accountant General
Admn. (Disciplinary Authority) Office
Of Accountant General (A&E) I, M.P.
Lekha Bhawan, Jhansi Road, Gwalior.
5. Senior Accounts Officer (Admn)
Office of Accountant General (A&E)I
53, Arera Hillsm, Hoshangabad Road



Bhopal.

Respondents,

(By advocate Shri P.Shankaran)

ORDER

By Madan Mohan, Judicial Member

By filing this OA, the applicant has sought the following reliefs:

- (i) To quash the impugned orders Annexure A12 dated 11.10.2001, Annexure A14 dated 22.4.02 and Annexure A16 dated 17.12.2002.
- (ii) Direct the respondents to release the increments and fix the pay of the applicant with consequential benefits.

2. The brief facts of the case are that the applicant was initially appointed on 13.6.1985 as Accounts Clerk and was promoted as Senior Accountant on 1.1.93. He was posted at Taj Mahal Building (Old Record Office), Bhopal for a period of three months, vide order - dated 16.4.98. Before joining the Taj Mahal Building, by his letter dated 20.4.98, the applicant intimated respondent No.5 about the dilapidated conditions of the building, incidences occurred earlier in that building and also informed that the State Government had declared it as unsafe and, therefore, he felt insecure to carry out his functions in such a building. He also warned the authorities of any untoward incident (Annexure A2). An incident of fire was reported in Taj Mahal Building on 28.12.98. On 11.1.99, he was placed under suspension without any preliminary enquiry. Thereafter a preliminary enquiry was conducted against him on 15.1.99 and a charge sheet was issued to him on 22.3.99 alleging that the applicant was absent from discharging his duties on 28.12.1998. In the meantime, the appellate authority vide order dated 22.3.99 revoked the suspension of the applicant. The disciplinary authority after receiving the report of the enquiry officer, disagreed with his findings and imposed a penalty by fixing the applicant's pay on the minimum pay scale of Rs.5000/- from Rs. 5900/- for three years with cumulative effect and without



any increments during the period of three years by order dated 11.10.2001 (Annexure A12). The applicant filed an appeal before the appellate authority and the appellate authority modified the order of penalty by increasing the pay of the applicant from Rs.5000/- to Rs.5450/- without changing the other conditions of the penalty (Annexure A14). Being aggrieved by the order of the appellate authority, the applicant filed a revision before the reversionary authority who confirmed the order of the appellate authority vide order dated 17.12.002 (Annexure A16). The applicant has filed this OA for quashing the aforementioned three orders (A12, A14 & A16).

3. Heard learned counsel for the parties. Learned counsel for the respondents stated that the applicant was supposed to be present at 9.30 a.m. at the duty place. The fire had broken out in the same room in which the applicant was working. If the applicant had attended his office in time and informed the fire brigade, less damage would have been caused but because of the negligence on the part of the applicant, more damage had been caused to the department. The applicant had also not informed about his late coming. Learned counsel of the respondents denied that it was a case of no evidence and further submitted that the disciplinary authority was well within his right to impose the penalty and the action of the respondents was perfectly legal and justified.

4. Learned counsel of the applicant has drawn our attention towards a common order of the Tribunal dated 19th August 2004 passed in OA Nos.536/03 & 543/03 in the case of Narendra Shahri & another Vs. Union of India and others and argued that on similar facts, the aforesaid OAs were allowed. We have perused the aforesaid order dated 19th August 2004. Para 5 of the order reads as under:

"We have given careful consideration to the rival contentions. We find that the apphcant was deputed to attend office on 28.12.98. On that day, a fire broke out in the office. It is the admitted fact that the building in which the applicant was working is



very old, in a dilapidated condition and was also declared unsafe for people working in that building. The applicant has also informed the respondents about this fact as early as in April 1998 and also warned that any untoward incident may take place in this building because of the dilapidated condition of the building. We find that the charge levelled against the applicant is that had he attended the office in time, there could have been less damage to the old records. In any case, it was not the duty of the applicant to keep a watch over the happenings in the buildings. He was only required to work in that office. It is normally the duty of chowkidars/watch and ward persons to take action in such situations and particularly in this case to inform the fire brigade that a fire has broken out. The only charge which could be proved against the applicant was that he came late to office by 2 hours. That is because of the fact that his child was ill and he had to take him to hospital. The respondents have not taken any action against the applicant on this charge of coming late to office. Instead they have imposed the penalty on the applicant for negligence and for the damage which has been caused due to the fire that had broken out in the building. Normally, if a person comes to office late, his half day or full day leave is debited for that day. No disciplinary action is required to be taken against a Government servant for this lapse of coming late to office. We find that the respondents have not taken action against the applicant for coming late but instead issued a charge sheet and imposed a major penalty, which is against rules. Therefore, we find that it is a case of no evidence. The charges, except the charge of coming late to office, have also not been proved. The note of disagreement recorded by the disciplinary authority is also not based on the correct fact. Therefore, the OA is liable to be allowed."

5. The facts of the aforesaid OAs are exactly similar to the present OA. Hence this OA is allowed. The order of penalty dated 11.10.2001 (Annexure A12); the order of the appellate authority dated 22.4.2002 (Annexure A14) and the order of the revisional authority dated 17.12.2002 (Annexure A16) are quashed and set aside and the respondents are directed to grant all consequential benefits to the



applicant within a period of three months from the date of receipt of a copy of this order. No costs.

(Madan Mohabn)
Judicial Member

(M.P. Singh)
Vice Chairman

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पृठांकन सं ओ/न्या.....जबलपुर, दि.....

प्रतिलिपि आये जिल:-

- (1) सचिव, उच्च न्यायालय जय एसोसिएशन, जबलपुर
- (2) आवेदक श्री/श्रीमती/शु.....के काउंसल
- (3) प्रत्यर्थी श्री/श्रीमती/शु.....के काउंसल
- (4) वॉयसमैन, को.प्र.अ., जबलपुर न्यायाधीश
सूचना एवं आवश्यक वार्सवाही हेतु

उप रजिस्ट्रार

Said Akhtar
P. Shankar
on

Filed
2-8-05