CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

CIRCUIT SITTING AT INDORE

OA No.201/04

and

OA No.203/04

Indore, this the 7th day of March, 2005.

C O R A M

HON'BLE MR.V.K.MAJOTRA, VICE CHAIRMAN
HON'BLE MR.A.S.SANGHVI, JUDICIAL MEMBER

OA No.201/04

Anil Kumar Grewal
S/o Gappuji Grewal
R/o Sanjay Nagar
Rau (M.P.) Applicant.

(By advocate Shri Vivek Phadke)

Versus

1. Union of India through
Secretary
Ministry of Atomic Energy
New Delhi.

2. Centre for Advanced Technology
through its Director
Deptt. of Atomic Energy
C.A.T., Indore.

3. Chief Administrative Officer
C.A.T., Indore.

4. Administrative Officer
C.A.T, Indore. Respondents.

(By advocate Shri Umesh Gajankush)

OA No.203/04

Amarnath Vishwakarma
S/o Ramlal Vishwakarma
R/o 360-A, Sector-A
Suryadeo Nagar
Indore. Applicant.

(By advocate Shri Vivek Phadke)

Versus

1. Union of India through
Secretary
Ministry of Atomic Energy
New Delhi.

2. Centre for Advanced Technology
through its Director
Deptt. of Atomic Energy
C.A.T, Indore

3. Secretary
Deptt. of Atomic Energy
Mumbai. Respondents.

(By advocate Shri Umesh Gajankush)

O R D E R (oral)

By A.S.Sanghvi, Judicial Member

Both the OAs are inter connected, having same subject matter and having same evidence in the enquiry proceedings, both are heard together by us and hence are being disposed of by this common order.

2. Applicant Anil Kumar Grewal in OA No.201/04 was serving as Helper in Centre for Advanced Technology, Indore while Amarnath Vishwakarma, applicant in OA No. 203/04 was working as Tradesman-B in the same Centre. Both were served with identical charge sheet dated 3.7.2003 levelling the charges that in the High School Certificate Examination held on 2.3.2000, 6.3.2000, 8.3.2000, 10.3.2000, 13.3.2000 and 15.3.2000 by the Board of Secondary Education, Madhya Pradesh, at the instance of Anil Kumar Grewal who was to appear in the examination, Amarnath Vishwakarma appeared in the examination and thereby had acted in a manner unbecoming of a Government servant and shown lack of integrity. On their denying the charges levelled against them, an enquiry under Rule 14 of the CCS (CCA) Rules was held against both of them and the enquiry officer after concluding the enquiry in his enquiry report held the charges levelled against the applicants as not proved. The disciplinary authority however did not agree with the finding of the enquiry officer and after furnishing the note of disagreement to the applicants and inviting their representations thereon concluded that the charges were proved and imposed a penalty of withholding one increment with cumulative effect for a period of 3 years by order dated 2.8.2003. After an unsuccessful appeal, the applicants have approached this Tribunal challenging the enquiry proceedings as well as the punishment imposed on them and praying for quashing and setting aside the punishment imposed.

3. The main ground on which the enquiry proceedings are assailed by the applicants is that even though there was no sufficient evidence on record and the enquiry officer has not found the charges proved against the applicants, the punishment is imposed on the applicants ~~is too harsh and shockingly misappropriate~~. It is also contended that the appellate authority has not applied his mind to the grounds mentioned in the appeal and has mechanically accepted the finding of the disciplinary authority.

4. The respondents in their identical reply to the OAs have defended the action of the disciplinary authority and contended that the disciplinary authority had rightly disagreed with the finding of the enquiry officer and after following the procedure of supplying the disagreement note to the applicants and inviting their objections thereon rightly imposed the penalty of withholding one increment for a period of 3 years with cumulative effect. They have maintained that the penalty cannot be said to be harsh or illegal or unreasonable in any sense and cannot be interfered with. According to the respondents, there is sufficient evidence on record to conclude that the charges levelled against the applicants were proved and the disciplinary authority had rightly relied on the evidence recorded during the course of the enquiry. They have denied that non-examination of the hand writing expert has in any way vitiated the enquiry proceedings or brought about any infirmity in the evidence laid by the prosecution. They have prayed that the OA be dismissed with costs.

5. We have heard the learned counsel for both parties and duly considered the rival contentions. It is pertinent to note that the applicants do not challenge the enquiry proceedings on the ground of violation of the principles of natural justice. They have nowhere contended in the OAs or in the appeals also that they were not given any opportunity to defend themselves in the enquiry nor have they pointed out any procedural lacuna in the enquiry. The charges levelled against the applicants were that Amarnath Vishwakarma, Tradesman-B was induced by Anil Kumar Grewal, a helper in the same department, to appear on his behalf, in the High School Certificate Examination held on 2.3.2000, 6.3.2000, 8.3.2000, 10.3.2000, 13.3.2000 and 15.3.2000 conducted by the Board of Secondary Education, Madhya Pradesh. The enquiry officer, no doubt, after holding the enquiry, had concluded that the charges levelled against the applicants were not proved. The disciplinary authority had, however, disagreed with the finding of the enquiry authority. He has given ample reasons for sueh disagreement and it cannot be denied that his reasons are based on the evidence recorded during the course of the enquiry. Though it is contended by the applicants that there was no sufficient evidence on record to hold that the charges levelled were proved, the disciplinary authority in his order has pointed out the evidence ~~justifyably holds~~ justifying his holding that the charges were proved. We have carefully gone through the order of the disciplinary authority and we find that he has given his finding of the charges having been proved on the strength of the evidence recorded during the course of the enquiry. He has fully discussed the evidence and even taken into consideration the defence version. He has relied on the circumstantial evidence of the applicant Amarnath Vishwakarma

taking leave on those days on which the examination was held, indicating that he had the opportunity on those days to appear in the examination and has also relied on the examination form on which the photograph of Amarnath Vishwakarma was affixed ~~but~~ though the form was ~~not~~ in the name of Anil Kumar Grewal. In our opinion, he has rightly concluded that there was adequate evidence on record to hold both the applicants guilty of the charges levelled against them.

6. It is settled position that the Tribunal while exercising~~se~~ jurisdiction under Article 226 cannot interfere with the finding of the disciplinary authority when they are not arbitrary or utterly perverse. It has been laid down by the Supreme Court in several decisions that the jurisdiction of the Tribunal to interfere with the disciplinary matter or punishment imposed cannot be equated with an appellate jurisdiction. The Tribunal cannot independely re-apprise the evidence and substitute its own findings for the findings of the disciplinary authority. In the case of M/s Apparel Promotion Council Vs. A.K.Chopra, reported in AIR 1999 SC 625, the Supreme Court has laid down that in departmental proceedings, the disciplinary authority is ~~just to~~ the sole judge of ~~all~~ the facts and in case an appeal is preferrred to the appellate authority, the appellate authority has also the powers and jurisdiction to re-apprise the evidence and come to his own conclusion on facts, being the sole fact finding authority. Once the findings of facts based on appreciation of evidence are recorded, the High Court in writ jurisdiction may not normally interfere with those facts and findings unless it finds that ~~evidence~~ recorded findings were based ~~for the basis~~ either on no evidence or that the findings were wholly perverse and/or legally untenable. The adequacy or inadequacy of the evidence is not permitted

to be canvassed before the High Court.

7. The same view has been expressed by the supreme Court in the case of UOI Vs. Paramananda (1989) 2 SCC 177 and B.Chaturvedi Vs. UOI, (1995) 6 SCC 749. These decisions have direct application to the facts of the instant case. Since we find that there was sufficient evidence on record to point the finger of guilt at the applicants and that there is absolutely no allegation of violation of the principles of natural justice during the course of the enquiry, We do not see any reason to interfere with the finding of the disciplinary authority and also of the appellate authority. The punishment imposed on the applkicants in the given circumstances of the case cannot be said to be in any way excessive , unreasonable or unjust. The same is not so excessive as to shock the concience of the Tribunal and do not required to be interfered with.

8. For the foregoing reasons, we do not find any merit in both the OAs and are of the considered opinion that both the OAs deserve to be dismissed. Accordingly, both the OAs are dismissed. No order as to costs.

(A.S.Sanghvi)
Judicial Member

(V.K.Majotra)
Vice Chairman

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पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....
प्रतिलिपि अग्रेषित :—
(1) सचिव, उच्च न्यायालय बार एसोसिएशन, जबलपुर
(2) आवेदक श्री/श्रीमती/कु.....के काउंसल Vandna Kasrekar
(3) प्रत्यर्थी श्री/श्रीमती/कु.....के काउंसल M. Rajmanikam
(4) कंथपाल, कें.प्र.अ., जबलपुर न्यायपीठ
सूचना एवं आवश्यक कार्यवाही हेतु
उप रजिस्ट्रार

Issued on 16.03.05