

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR,
JABALPUR

Original Application No. 650 of 2004

Bilaspur, this the 18th day of March, 2005

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

Manohar Lal Khanna Applicant

(By Advocate – Applicant in person)

V e r s u s

Union of India & Ors. Respondents

(By Advocate – Shri A.P. Khare)

O R D E R

By Madan Mohan, Judicial Member –

By filing this Original Application the applicant has claimed the following main reliefs :

“a) to quash the illegal order dated 5.8.2003 passed by the respondent No. 2 imposing major penalty of compulsory retirement from service on applicant with treating of absence period w.e.f. 12.10.1992 onwards as Dies-non, on the basis of an illegal, timebarred, unprocedural and malafide DE initiated against the applicant in 1997 by the respondents and accordingly direct the respondents –

i) to release payment of withheld (specially sanctioned) provisional pay w.e.f. 12.10.1992 onwards with consequential benefits of increments, pay fixation, interest at market rates etc.,

ii) to grant withheld promotions w.e.f. November, 1989 onwards with consequential benefits of its arrears etc.,

b) to issue GPF A/c. slips w.e.f. 1984-85 onwards with interest accrued.”

2. The brief facts of the case are that the applicant had joined the IB on 30.1.1969 as ACIO-II. He was issued a charge sheet on 6.5.1997

the charges that while posted in SIB Bhopal he unauthorisedly absented himself from duty w.e.f. 12.10.1992 after he was declared fit to resume his duties by the medical authorities and disobeyed the orders of his superiors. The applicant submitted his reply and the enquiry which was conducted by the respondents against the applicant was not in accordance with rules. The disciplinary authority had imposed the major penalty of compulsory retirement from service on the applicant with immediate effect and further the period of unauthorized absence from duty to the date of issue of the impugned order was treated as dies-non. This order of the disciplinary authority is not passed in accordance with the rules and law. Hence, this Original Application is filed.

3. Heard the applicant in person and the learned counsel for the respondents and also carefully perused the pleadings and records.

4. The learned counsel for the respondents raised a preliminary objection that the applicant has not exhausted the remedy of appeal under the CCS(CCA) Rules to the appellate authority against the order of the disciplinary authority. This material fact is not controverted by the applicant by filing any rejoinder.

5. After hearing the learned counsel for the parties we find that the Section 20 of the Administrative Tribunals Act, 1985 provides that "(1) A Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances". In this case we find that the applicant has not exhausted the statutory remedy of filing an appeal against the order passed by the disciplinary authority.

6. Hence, without going into the merits of the case, we are of the considered opinion that ends of justice would be met if we direct the

applicant to file an appeal against the order of the D.A., within a period of one month from the date of receipt of a copy of this order. We do so accordingly. If the applicant complies with this, the appellate authority is directed to consider and decide the appeal of the applicant by passing a speaking, detailed and reasoned order within a period of two months from the date of receipt of the appeal. It is also directed to the appellate authority that while considering the appeal of the applicant they will decide the same on merits and will not take the plea of limitation.

7. Accordingly, the Original Application stands disposed of. No costs.

8. The Registry is directed to supply the copy of memo of parties to the concerned parties while issuing the certified copies of this order.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

"SA"

पृष्ठांकन सं ओ/न्या.....जयलपुर, दि.....

प्रतिलिपि जारी है:-

(1) सचिव, उच्च न्यायालय, जयलपुर

(2) आवेदक श्री/श्रीमती.....के काउंसल

(3) प्रत्यर्पी श्री/श्रीमती, व.....के काउंसल

(4) बंधुपाल, को.प्र.अ., जयलपुर न्यायालय

सूचना एवं आवश्यक कार्यवाही हेतु

उप रजिस्ट्रार

M.L. Khanna Bhafat

D. Khanna

24-3-05

Issued
on 24.3.05
BS