

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

OA No.130/03

Jabalpur, this the 17th day of August, 2004.

C O R A M

Hon'ble Mr.M.P.Singh, Vice Chairman
Hon'ble Mr.A.K.Bhatnagar, Judicial Member

P.R.Sajee
S/o Shri K.T.Rajan
R/o House No.35, Vallabh Nagar
Near St.Xavier's School, Barkhera
Bhopal.

Applicant

(By advocate Smt.S.Menon)

Versus

1. Union of India through
Secretary
Ministry of Finance
Department of Revenue
New Delhi.
2. Comptroller and Auditor General of India
10, Bahadur Shah Zafar Marg
Indraprastha
New Delhi.
3. Principal Accountant General (A&E)
Lekha Bhawan
Gwalior (MP)
4. Deputy Accountant General (A&E-I)
53, Arera Hills
Hoshangabad Road
Bhopal.

Respondents

(By advocate Shri P.Shankaran)

O R D E R (oral)

By M.P.Singh, Vice Chairman

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

- (i) To call for the original records containing the memorandum of charge sheet (A-7) as also the enquiry initiated thereof, resulting in issuance of the orders of penalty (A-16), orders of appellate authority (A-18) and revisional authority (A-20/21).
- (ii) To set aside the order of suspension dated 11.1.99 (A-3) resulting in the issuance of memorandum of charge sheet as also the proceedings culminating in the order dt.11.10.01 (A-16), order dated 22.4.02 (A-18) and order dated 17.12.02 (A-20 & A-21) respectively.

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2. The admitted facts in brief are that the applicant is functioning as Senior Accountant under respondent No.4 and is posted at Bhopal. While he was working as such, a charge sheet has been issued to the applicant and an enquiry has been held against him. The only charge proved against the applicant is that he had come ~~late~~ to the office. The rest of the charges had been held not proved. The disciplinary authority, after taking into consideration the representation of the applicant, did not agree with the finding of the enquiry officer and recorded his note of disagreement. He had sent the note of disagreement along with the finding of the enquiry officer to the applicant to submit his representation. The applicant submitted a representation and the disciplinary authority vide order dated 11.10.01 (Annexure A16) imposed a penalty of reduction of pay of the applicant to a stage of Rs.5000/- in the pay scale of Rs.5000-8000/- for a period of three years with cumulative effect. He challenged the order of the disciplinary authority and filed an appeal. The appellate authority vide order dated 22.4.02 (Annexure A18) reduced the punishment imposed on the applicant by modifying the pay of the applicant to the stage of ^{5600/-} instead of Rs.5000/- for a period of 3 years. The applicant filed a revision petition which was also rejected vide order dated 17.12.02 (Annexure A21). Aggrieved, the applicant has filed this application.

3. Heard learned counsel for both parties. Learned counsel of the applicant has submitted that the building in which the applicant was working has been declared unsafe and in a dilapidated condition to work. She has drawn our attention to a letter written by the applicant on 20.4.98

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informing the respondents that it is unsafe to work in this building and any untoward incident may take place at any point of time. Subsequently on 28.12.98, a fire broke out in the same building and a lot of old records of the office of A.G., which were kept in the building were burnt. On that day, the applicant was required to attend the office at 9.30 a.m. but because his child was unwell, he had to take the child to hospital and, therefore, he was late to attend the office by 2 hours. In any case, the applicant was not responsible for the fire that broke out. That was the duty of watch & ward or chowkidars to take care of the building and in case of fire, he was required to inform the fire brigade. The only fault of the applicant is that he was late to reach office by 2 hours and for this he has been charge sheeted and a major punishment has been imposed on the applicant. The learned counsel of the applicant further argued that the applicant was residing about 15 kilometres away from the respondent office and no telephone facility was available in his office and he could not inform over telephone about his attending office late. In any case, the applicant was not responsible for the fire that had broken out on that day in the building and for the damage caused to the old records. The charges have not been proved against the applicant about the damage caused to the records. The note of disagreement recorded by the disciplinary authority is also not based on the facts. In view of this fact, this is a case of no evidence and the penalties imposed on the applicant by the disciplinary as well as the appellate authority are liable to be set aside.

4. on the other hand, learned counsel for the respondents states that the applicant was required to attend his office at 9.30 a.m. The fire had broken out in the same room in which

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the applicant was working. Had the applicant attended his office in time and informed the fire brigade in time, less damage to the old records of the office of A.G. could have been caused but because of the negligence of the applicant more damage has been caused and the situation could have been different had he reached the office in time. According to him, there was negligence on the part of the applicant. Moreover, the applicant did not inform the office about his late coming to the office. The learned counsel has also denied that it is a case of no evidence, and he submits that the disciplinary authority is well within his right to impose the penalty as has been done in this case.

5. We have given careful consideration to the rival contentions. We find that the applicant 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 building. He was only required to work in that office. It is normally the duty of chowkidars/watch & 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.

6. For the reasons recorded above, the OA is allowed. The order of penalty dated 11.10.2001 (Annexure A16) passed by the disciplinary authority, the order dated 22.4.02 (Annexure A18) passed by the appellate authority and the order dated 17.12.02 (Annexure A21) passed by the revisional authority are quashed and set aside. Respondents are directed to grant all consequential benefits to the applicant within a period of three months from the date of receipt of the copy of this order. No costs.


(A.K.Bhatnagar)
Judicial Member


(M.P.Singh)
Vice Chairman