

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Applications Nos. 536/03 & 543/03

Jabalpur, this the 19th day of August, 2004

Hon'ble Mr. M.P. Singh, Vice Chairman

Hon'ble Mr. A.K. Bhatnagar, Judicial Member

(1) Original Application No.536/2003

Narendra Shahri S/o Shri Mr.D.

Shahri, aged about 36 years,

Senior Accountant(03/5768), O/o

AG(A&E)-I, 53 Arera Hills,

Hoshangabad Road, Bhopal, R/o

MIG B-57 Sonagiri, Bhopal 462 021.

APPLICANT

(By Advocate - Shri Sajid Akhtar)

(2) Original Application No. 543/2003

Narendra Choudhary S/o late Shri

K.Choudhary, aged about 39 years,

Senior Accountant(03/5761), O/o

AG(A&E)-I, 53 Arera Hills,

Hoshangabad Road, Bhopal, R/o

Type II-77 A.G. Colony,

Bhabhada Road, Bhopal 462-003.

APPLICANT

(By Advocate - Shri Sajid Akhtar)

VERSUS

1. Union of India
Through : Secretary, Comptroller
& Auditor General of India,
New Delhi.

The Comptroller & Auditor
General of India(Revisionary
Authority), 10 Bahadur Shah
Zafar Marg, New Delhi.

3. The Principal Accountant General
(A&E), Office of Accountant
General, MP & CG, Gwalior(MP).
(Appellate Authority).

4. The Senior Deputy Accountant
General (Administration)/
Disciplinary Authority, Office of
Accountant General, MP & CG,
Gwalior.

5. Senior Account Officer(Admn.)
Office of Accountant General(A&E)
1st Floor, Sahakar Bhavan, T.T.
Nagar, Bhopal.

RESPONDENTS

(By Advocate - Shri P.Shankaran in both the OAs)

COMMON ORDER (ORAL)

By M.P. Singh, Vice Chairman -

Since the issue involved in both the OAs is common and

the facts and the grounds raised are identical, for the sake of

convenience these OAs are being disposed of by this common order.

2. By filing both the OAs, the applicants have sought the following main reliefs :-

"(ii) to issue a writ in the nature of certiorari quashing the impugned order dated 11.10.2001, (Annex.A/10) imposing harsh Punishment/penalty on the applicant by the respondent No.4; order dated 22.4.2002(Annex.A/12) passed by the appellate authority/ respondent 3 and the order dated 9.1.2003(Annex.A/14)

(iii) to issue a writ in the nature of mandamus directing the respondents to release the increments and fix the pay of the applicant, as he was received before imposing a penalty, and also give all consequential benefits and arrears of pay."

3. The admitted facts in brief are that the applicants are functioning as Senior Accountant and are posted at Bhopal. While they were working as such, a charge sheet has been issued to the applicants and an enquiry has been held against them. The only charge proved against the applicants is that they 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 applicants, 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 applicants to submit their representation. The applicants submitted their representation and the disciplinary authority vide order dated 11.10.01 imposed a penalty of reduction of pay of the applicants 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 22.4.2002 reduced the punishment imposed on the applicants by modifying the pay of the applicant to the stage of Rs.5600/- instead of Rs.5000/- for a period of 3 years. The applicants filed their revision petitions which were also rejected vide order dated 9.1.2003. Aggrieved, the applicants have filed these applications.

4. Heard the learned counsel for the parties and perused the records.



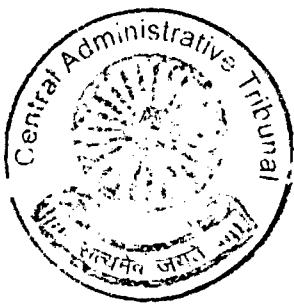
5. The learned counsel for the respondents states that the applicants were required to attend his office at 9.30 a.m. The fire had broken out in the same room in which the applicants were working. Had the applicants attended their office in time and informed the fire brigade in time, less damage to the old records of the office of A.G. could have been caused but because of the negligence of the applicants more damage has been caused and the situation could have been different had they reached the office in time. According to him, there was negligence on the part of the applicants. Moreover, the applicants did not inform the office about their 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 these cases.

6. We find that a similar case has come before this Tribunal in the case of P.R. Sajee Vs. UOI & Ors. decided on 17.8.2004 in OA No.130/2003, in which the Tribunal has held as under :-

"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 buildings. 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 xxxxxxxxxxxx"



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."

7. The issue involved in both these OAs has already been dealt with by the Tribunal in the aforesaid OA No.130/2003. Therefore, we are in full agreement with the said decision and accordingly these OAs are also liable to be allowed.

8. For the reasons recorded above the OAs are allowed. The order of penalty dated 11.10.2001 passed by the disciplinary authority, the order dated 22.4.2002 passed by the appellate authority and the order dated 9.1.2003 passed by the revisional authority are quashed and set aside. The 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.

Sd/-

(A.K. Bhatnagar)
Judicial Member

Sd/-

(M.P. Singh)
Vice Chairman

पूछांकन सं. ओ/न्या..... जबलपुर, दि.....
परिलिपि अर्जों दिनां:

- (1) सचिव, उच्च न्यायालय अर्पणसिराजल, जबलपुर
- (2) आमदार श्री/श्रीमती/द्वारा..... के काउंसल
- (3) प्रधार्णी श्री/श्रीमती/यह..... के काउंसल
- (4) ज.प्राल. कोपा. राज.पुर नगरपाल

राजना एवं आवश्यक पर्यावरणी हेतु

उप रजिस्ट्रार