

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

CIRCUIT SITTING AT BILASPUR

OA No. 302/02

~~Given on~~ this the ^{1st} date of December, 2004

Smt. Juthika Majumdar
W/o Vijay Krishna Majumdar
C/o Ashok Provision Store
Near Tandan Diary
New Shanti Nagar
Raipur (Chhattisgarh)

Applicant

(By advocate Shri S.Paul)

Versus

1. Union of India
Ministry of Water Resources
New Delhi.

2. The Dy. Secretary &
Chief Vigilance Officer
Ministry of Water Resources
New Delhi.

3. Union Public Service Commission
through its Secretary
Dholpur House
New Delhi

Respondents.

(By advocate Shri K.N.Pethia)

O R D E R

By Madan Mohan, Judicial Member

The applicant seeks the following reliefs:

(i) Set aside the impugned punishment order dated 27.7.2001 (Annexure A1).

(ii) Direct the respondents to reinstate the applicant with full back wages and pay all consequential benefits as if the impugned order is never passed.

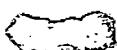
2. The brief facts of the case are that the applicant was working as LDC in Central Ground Water Department, Raipur. A charge sheet dated 22.10.97 (Annexure A2) was issued to the applicant wherein certain incorrect and frivolous allegations were made against her. The applicant submitted her reply and denied the charges. Another charge sheet was issued to one S.C.Tiwari, Scientist 'C' on identical charges. A joint enquiry was conducted and the enquiry report was served on the applicant vide letter dated 25th Nov.99 (Annexure A5). Conducting joint enquiry is bad in law. The applicant submitted her representation against the enquiry report. The findings of the inquiry officer



are not based on material on record and are perverse in nature. During the departmental enquiry, S.C.Tiwari attained the age of superannuation and retired. Hence the punishment of withholding of 1/3rd pension was imposed on him. The applicant was ultimately inflicted with the impugned punishment of compulsory retirement. The punishment is harsh, excessive and disproportionate which is liable to be set aside. The applicant was punished by the impugned order pursuant to decision of UPSC dated 15.6.01 (Annexure A8). However, A8 was not supplied to the applicant before imposition of the punishment enabling her to prefer representation against it. In absence thereof, the punishment order is against the principles of natural justice and is liable to be set aside.

3. Heard the learned counsel for both parties. It is argued on behalf of the applicant that the applicant was working under S.C.Tiwari. She has not committed any mistake but only following the directions of her superior officer. No adequate and reasonable opportunity of hearing was given by the enquiry officer. Conducting a joint enquiry is also against rules and the disciplinary proceedings were initiated under Rule 9 of CCS (Pension) Rules. The copy of the advice tendered by UPSC should have been supplied to the applicant because the impugned orders passed are on the basis of the advice of the UPSC dated 15.6.01 (annexure A8) and the punishment awarded is too harsh and excessive.

4. In reply, learned counsel for the respondents argued that the charges framed and established against the applicant related to the fabrication of the records, making false entries in the office records, writing different amounts in cheques, counter foils of cheques, authorisation letter and commission of other manipulations thereby causing an embezzlement of government money to the tune of Rs. 20,500/-. This is a very serious charge and hence this is not a case of no evidence. Joint enquiry



was conducted under rule 18 of the CCS (CCA) Rules 1965. The proceedings against S.C.Tiwari, the other charged officer in this case, which were initiated against him under Rule 14 of the CCS (CCA) Rules were merely continued under Rule 9 of the CCS (Pension) Rules 1972 because the proceedings were not completed when Shri Tiwari retired on superannuation . Hence there is no irregularity or illegality in this regard. The findings of the enquiry officer was fully based on the oral and documentary evidence and due opportunity of hearing was given to the applicant and the findings of the enquiry officer were minutely scrutinised by the CVC and the UPSC and the punishment awarded to the applicant is not harsh looking into facts of the charges levelled against her.

5. After hearing the learned counsel for the parties and a careful perusal of the records, we find that under Rule 18 of CCS (CCA)=Rules a joint enquiry can be conducted if the charges are identical. It is admitted by the applicant in the OA that the charges against the applicant and S.C.Tiwari are same and identical and the enquiry was not completed against ~~when he served on superannuation hence~~ Tiwari and it was continued under Rule 9 of CCS (Pension) Rules 1972. Hence there is no procedural irregularity in this matter. The charges against the applicant are proved and established according to the reports submitted by the enquiry officer Annexure A4. We have perused the report in which it is also mentioned that "Smt J.Majumdar accepts that the entries in both the registers in respect of above bills have been made by her. She also accepts the mistake in the total but has stated that she was keeping a totally indifferent health, being in the early stage of pregnancy. Hence the charges against the applicant are fully proved and established. This is not a case of no evidence and the Tribunal cannot reappraise

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the evidence. So far as the advice of UPSC is concerned, it is also supported by the finding of the report of the enquiry officer. Due opportunity of hearing was given to the applicant as she has submitted her representation against the report of the enquiry officer and thereafter the impugned order dated 27.7.01 (Annexure A1) was passed. The charges against the applicant are very serious in nature as the charges related to fabrication of the records, making false entries in the office records, writing different amounts in cheques, counter foils of cheques, authorisation letter and commission of other manipulations, which is not expected from a government servant at all and the mere contention of the applicant that she was doing all these things in compliance of the directions and orders of her superior S.C.Tiwari cannot be accepted.

6. Considering all the facts and circumstances of the case, we are of the considered opinion that the punishment of compulsory retirement from service does not seem to be harsh and the respondents have neither committed any irregularity or illegality in conducting the enquiry or passing the impugned orders. We have perused the impugned order dated 27.7.01(A-1) which is a speaking, detailed and reasoned order. Therefore, the OA has no merit and the same is dismissed. No costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman

aa.

प्राप्तिकर्ता का नाम/निवास.....जबलपुर, दि.....
प्रतिलिपि आवेदन क्रमांक:—

- (1) सचिव, उच्च व्यापारालय वार्ड राजीवगढ़, जबलपुर
- (2) आवेदक श्री/श्रीमती/कुमा... के काउंसल
- (3) प्रत्यर्थी श्री/श्रीमती/कुमा... के काउंसल
- (4) विधायक, केंद्रीय व्यापार विभाग
संघना एवं आवश्यक कार्यवाही देखने

S. Paul DAV. 206

K. N. P. D. 207

D. 208

Issued
On 13.12.01
By
Rajendra Singh