

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH  
CIRCUIT SITTING AT GWALIOR

....

Original Application No. 431/2001

Gwalior, this the 26th day of February, 2004

HON'BLE SHRI M.P.SINGH, VICE CHAIRMAN  
HON'BLE SHRI G.SHANTHAPPA, JUDICIAL MEMBER

Dularelal s/o late Shri Umrao,  
age 58 years,  
Occupation Service as District Opium Officer,  
Gwalior (Superintendent Executive, Narcotics  
Office, Morar, Gwalior, M.P.).

...Applicant

(By Advocate: Shri Swami Saran)

-versus-

1. Union of India through  
President of India through  
Secretary,  
Ministry of Finance,  
Deptt. of Revenue,  
(Ad.V.Section), New Delhi.

2. Narcotics Commissioner of India,  
office of Narcotics Commissioner of India,  
19, Mall Morar, Gwalior,  
Distt. Gwalior (MP).

...Respondents

(By Advocate: Shri P.N.Kelkar)

ORDER (ORAL)

By M.P.Singh, Vice Chairman:-

By filing this O.A. the applicant has sought the  
following main reliefs:-

1) The order dated 29.10.1998(dated 10.10.1998  
as per Appellate Authority) Annex. A/7 and  
order dated 14.2.2001 of the Appellate Authority,  
Hon'ble President of India be kindly quashed  
and the findings of the enquiry officer  
regarding the charges having not been proved  
be maintained and the applicant be kindly  
treated exonerated of the charges levelled  
against him in the departmental enquiry. Further  
the entire proceedings of departmental enquiry  
for major misconduct and major penalty be  
kindly be declared as illegal and the same be  
kindly quashed, as not being legally permi-  
ssible."

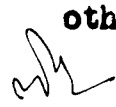
2. The brief facts of the case are that the applicant

was working as Inspector in the office of Narcotics Commissioner of India, Ministry of Finance. While he was working as such, a chargesheet was issued to him levelling the following charges:

"Shri Dularelal, while functioning as Inspector, in the office of the Deputy Narcotics Commissioner, Neemuch was appointed as the Investigating Officer, in the seizure case of 33.200 kgs. of opium effected on 29.12.1996 at Bhavlia Bus Stand, and were directed to prepare the detention proposals against the accused persons in this case. In spite of repeated reminders verbally as well as in writing conveyed to him under this office letters of even number dated 4.2.1997, 8.4.1997 and 3.5.1997, to submit the detention proposals alongwith the clear and legible copies of the relied upon documents from time to time, Shri Dularelal, did not bother to send the proposals alongwith the documents relied upon. The said documents were received from him only in the second week of May, 1997 while the detention proposals have not been received from him. The detention proposals, were, therefore, prepared on the basis of the records available in this office. The detention proposals could not be forwarded timely, on account of the inordinate delay on the part of Shri Dularelal, Inspector. By the said act, Shri Dularelal, displayed gross negligence and dereliction to his duty.

By this act, the said Shri Dularelal, Inspector, failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. servant and thereby contravened the provisions contained in Rule 3(1)(i)(ii) and (iii) of CCS (Conduct) Rules, 1964."

3. The enquiry officer was appointed to investigate into the charges. The enquiry officer concluded the enquiry holding that the charges are not proved. The disciplinary authority has recorded a note of disagreement. The findings of the enquiry officer alongwith a copy of note of disagreement recorded by the disciplinary authority was sent to the applicant to make his representation. The applicant has submitted his representation against the note of disagreement of the disciplinary authority. The disciplinary authority, after taking into consideration the representation of the applicant and the findings of the enquiry officer and other relevant material on record, imposed the penalty on the



applicant of withholding two increments with cumulative effect. The applicant has filed an appeal against the order dated 26.10.1998 passed by the disciplinary authority, on <sup>26-12-1998</sup> ~~26.7.1999~~. The appellate authority vide its order dated 14.02.2001 rejected the appeal of the applicant. Being aggrieved with the said order, the applicant has filed the present O.A. for the aforesaid relief.

4. We have heard the learned counsel for the parties.

5. Learned counsel for the applicant has submitted that the only mistake committed by the applicant is delay in processing the papers which does not amount to misconduct. To support his claim, he has relied upon the judgement of the Hon'ble Supreme Court rendered in the matter of Union of India & Ors. vs. J. Ahmed, reported in AIR 1979 SC 1022 decided on 7.3.1979. He has also submitted that due to delay in processing the papers, no loss is caused to the Govt. He has further submitted that the delay in processing the papers does not call for institution of enquiry and for that only a minor penalty or warning would have sufficed. He has also submitted that the contention of the respondents that it is a minor penalty is not correct.

6. On the other hand, learned counsel for the respondents has stated that although the enquiry officer has reached the conclusion that the charges are not proved but during the discussion, the enquiry officer has himself admitted that there was a delay in processing the papers. As the matter was relating to a very sensitive item and, therefore, the respondents have taken a serious view of the matter and has instituted an enquiry against the applicant. He has also <sup>in</sup> submitted that the penalty imposed on the applicant is a major penalty.

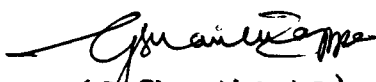
7. We have given a very careful consideration to the rival contentions of the parties and we find that the

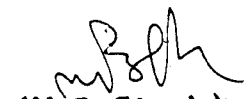
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chargesheet has been issued to the applicant for delaying the process of detention of the accused and inspite of giving oral reminders or even written reminders by the superiors, the applicant has delayed the process. The enquiry has been held as per rules and procedures. Though the charges are not proved but the enquiry officer has himself admitted that there has been delay on the part of the applicant. The disciplinary authority has recorded a note of disagreement as required under the rules. It has also given an opportunity of hearing to the applicant by sending his note of disagreement to the applicant to submit his representation. Thus, the principles of natural justice have been followed by the respondents. It is a well settled legal position that the Tribunal cannot re-appraise the evidence and also cannot go into the quantum of punishment. <sup>with</sup> The judgement of the Supreme Court (supra) relied upon by the applicant is not applicable in this case. <sup>with</sup>

8. For the reasons stated above, we do not find any

ground to interfere with the orders passed by the disciplinary authority and the appellate authority. The O.A. is, therefore, without any merit and the same is accordingly dismissed. No costs.

  
(G. Shanthappa)  
Judicial Member

  
(M.P. Singh)  
Vice Chairman

/na/

*Final  
on  
4-3-04*

*Swami Saran, Adm.  
PN Kulkar, Adm.*

*2004*