

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
(CAMP'T OFFICE AT INDORE)

Original Application No. 554/2001

Indore, this the 20th day of April, 2004

Hon'ble Shri M.P.Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Member (J)

Babban Upadhyay s/o late U.S.Upadhyay,
Aged 46 years,
Occupation - Service,
R/o Qr.No. 3493,
Bank Note Press Colony,
Dewas.

...Applicant

(By Advocate: Shri V.N.Palsikar)

-versus-

1. Union of India through
Joint Secretary,
Finance Department,
Economic Affairs (Currency),
New Delhi.
2. General Manager/Appellate Authority,
Bank Note Press,
Dewas.
3. Deputy General Manager,
Disciplinary Authority,
Bank Note Press,
Dewas.

...Respondents

(By Advocate: Smt. S.R.Waghmare)

O R D E R

By Madan Mohan, Member (J):

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

- i) The punishment order dated 31.3.2000 (Annexure A/4) and the appellate order dated 13.9.2000 (Annexure A/5) may be quashed.
2. The brief facts of the case are that the applicant was initially appointed on the post of Junior Machine Assistant vide order dated 28.11.1973 and he was promoted to the post of Deputy Technical Officer in the year 1984. On 10.2.1995, he was served with a chargesheet alleging that he misbehaved with the superior officer and did not comply with the

18

orders passed by his officer. His integrity is doubtful. It is submitted by the applicant that the charges levelled against him are vague and are of general nature. At the same time, the finding of the enquiry officer is also vague as none of the charges against the applicant are found proved. There was absolutely no evidence on record to support the findings of the enquiry officer. The applicant, therefore, submitted his representation against the finding of the enquiry officer. He also submitted that no punishment was proposed in the letter and the same cannot be termed as a second show cause notice and in absence of second show cause notice the entire enquiry proceedings stands vitiated. The disciplinary authority vide his order dated 31.3.2000 imposed the penalty of reducing the basic pay of the applicant from Rs. 7600/- p.m. to Rs. 7425/- p.m. i.e. reduction in pay scale by one stage for a period of one year w.e.f. 1.5.2000 with cumulative effect in future. There was no application of mind by the disciplinary authority in passing the aforesaid order and the same is contrary to Rule 15(4) of the CCS(CCA) Rules. Aggrieved by this order, the applicant preferred an appeal and the said appeal was also rejected by the appellate authority by non-speaking order dated 13.9.2000 which is contrary to rule 27(2) of CCS(CCA) Rules.

3. Heard the learned counsel for both the parties and perused the pleadings and other material available on record.

4. Learned counsel for the applicant argued that order dated 31.3.2000 passed by the disciplinary authority is non-speaking one and the appellate authority has also not assigned any reason in his order dated 13.9.2000 while dismissing the appeal of the applicant. Hence, both the orders are contrary to Rule 15(4) and 27(2) of the CCS(CCA) Rules. Our attention has been drawn towards the judgement of the Hon'ble Supreme Court rendered in the matter of R.P.Bhatt vs. Union of India & Ors reported in AIR 1986 SC 1040 in which it is held - Removal



from service -Appeal against dismissal of - Non-compliance with requirements of R 27(2) - Order dismissing appeal was liable to be set aside. Learned counsel for the applicant also argued that no punishment was proposed in the show cause notice hence the impugned orders are illegal, ~~... ultra vires~~ and contrary to rules.

5. In reply it is argued on behalf of the respondents that the orders passed by the disciplinary authority and the appellate authority are speaking orders as the reasons have been assigned in the said orders and, therefore, there is no violation of any rule of CCS(CCA) Rules. He further argued that if the proposed punishment had been mentioned in the show cause notice then it would have been the illegal act on the part of the respondents.

6. After hearing the learned counsel for the parties, we perused both the orders passed by the disciplinary authority and the appellate authority and found that ~~they~~ are perfectly speaking and reasoned orders. We also see that the charges levelled against the applicant are serious and grave in nature thereby his devotion towards his official duty has also been adversely affected. After going through the CCS(CCA) Rules and the judgement of the Hon'ble Supreme Court cited by the applicant, we are of the view that there seems to be no violation of these rules in any way in passing the aforesaid orders by the respondents. We are also in agreement with the arguments advanced by the learned ^{of} counsel for the respondents that disclosure/proposed punishment in the show cause notice would have been an illegal act on the part of the respondents.

7. In the facts and circumstances of the case, we find no merit in the O.A. and the same deserves to be dismissed which is accordingly dismissed. No costs.


(Madan Mohan)
Member (J)


(M.P.Singh)
Vice Chairman

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