

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH

CIRCUIT CAMP : INDORE

Original Application No.560 of 2001

Indore, this the 15th day of January, 2004

Hon'ble Shri M.P.Singh - Vice Chairman
Hon'ble Shri G.Shanthappa - Judicial Member

Hiraman Yeshwante s/o late Shri Ramchandra
Yeshwante, aged 60 years, Dy.Technical Officer
(Retd), Guillotion (Printing), Bank Note Press,
Dewas, r/o EWS 423, Mukerjee Nagar, Dewas M.P. - APPLICANT

(By Advocate - Shri D.M.Kulkarni)

Versus

1. Union of India through Finance Secretary,
Ministry of Finance, South Block, (Bank Note
Press Branch), New Delhi.
2. General Manager, Bank Note Press, Dewas.
3. Dy.General Manager, Bank Note Press, Dewas - RESPONDENTS

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

O R D E R (ORAL)

By M.P.Singh, Vice Chairman -

The applicant has filed this O.A. claiming the
following main reliefs -

"8.1 It be declared that the finding of guilt of
the applicant is illegal and the same be
quashed with consequential benefits.

8.2 It be declared that the suspension order was
illegal and the applicant be ordered to be
treated on duty since 9.3.2001 till date of
punishment.

8.3 It be declared that the applicant is entitled
to leave encashment and all other pensionary
benefits".

2. The brief facts of the case are that the applicant
while he was working as Dy.Technical Officer in Bank Note
Press Dewas was deputed to Machine Tool Prototype Factory,
Ambernath on official duty/on 9.2.1999 in connection with
the inspection of Band Coat Machine. Both the employees stayed
in Inspection Bungalow/Officers' Mess of Ordnance Factory,
Ambernath from 10.2.1999 to 15.2.1999. During his stay in
Inspection Bungalow, the applicant brought an unidentified lady

msh to the room of the Inspection Bungalow for immoral activities
Contd....2/-

They were ^{dr} and ^{was} found to be quarrelling with each other in a drunken condition and created a scene. Accordingly, he was placed under suspension w.e.f. 9.3.1999 vide order dated 9.3.1999 (Annexure-R-2). Subsequently a charge-sheet was issued to him on 1.6.1999 (Annexure-R-3). On denial of charges, enquiry was conducted under Rule 14 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965. The enquiry officer submitted his report on 5.8.2000 and a copy of the same was provided to the applicant vide memo dated 8.8.2000. The applicant submitted his representation on 24.8.2000 against the enquiry report. The disciplinary authority after going into the material and the representation of the applicant, passed the order dated 31.10.2000 (Annexure-R-9) imposing the penalty of compulsory retirement from service with further direction that the applicant will be entitled ^{with} for 75% of pension and ^{with} 75% of gratuity ^{and his suspension period will be treated as non-duty}. Aggrieved by the decision of the disciplinary authority, the applicant preferred an appeal, which was rejected by the appellate authority vide order dated 30.6.2001 (Annexure-R-11). Hence the applicant has filed this OA.

3. Heard the learned counsel for the parties.

4. The learned counsel for the applicant has submitted that this O.A. is liable to be allowed on two grounds - firstly that the order passed by the disciplinary authority is illegal as he has imposed the penalty of cut in pension and cut in gratuity under the CCS(CCA) Rules, 1965 whereas this can be made only after holding the enquiry under the CCS(Pension) Rules, 1972; and secondly that the applicant was not found in drunken condition in the public place and, therefore, not committed any misconduct under Rule 22 of the CCS(Conduct) Rules. The learned counsel drew our attention to the Govt. of India decision no. (3) reproduced below Rule 22 of the CCS(Conduct) Rules, 1964 (Swamy's compilation -Twenty-fifth Edition) where clarification


regarding public place has been given. He submits that

as the applicant was found in drunken condition inside the room of the guest house, therefore, it does not become a misconduct.

5. On the other hand the learned counsel for the respondents has submitted that the applicant was on duty as he was deputed to Machine Tool Prototype Factory, Ambernath on official duty and he was found in the Officers' Mess of Ordnance Factory Ambernath in a drunken condition while he was staying in the Inspection Bungalow on official duty. The learned counsel for respondents has also drawn our attention to Rule 40(1) of Central Civil Services (Pension) Rules, 1972 which stipulates that a Government servant compulsorily retired from service as a penalty may be granted, by the authority competent to impose such penalty, pension or gratuity or both at a rate not less than two-thirds and not more than full compensation pension or gratuity or both admissible to him on the date of his compulsory retirement.

6. We have considered the rival contentions of both the learned counsel for the parties and also perused the pleadings. We find that the applicant was charge-sheeted under Rule 14 of the Central Civil Services (CCA) Rules, 1965 and the enquiry has been held properly in accordance with the laid down procedure. The applicant has been given an opportunity of hearing and thus principles of natural justice have been followed by the respondents. It is the settled legal position that the Courts and Tribunals cannot reappraise the evidence and also go into the question of quantum of punishment.

7. We have also gone through the Govt. of India's decision No. (1) reproduced below Rule 40 of the CCS (Pension) Rules, 1972 (Swamy's compilation Sixteenth Edition-2002) which provides as under -

 (1) Guiding principles for reduction of pensionary benefits under Rule 40(1). - Rule 40 prescribes the limit for retirement benefits which would be admissible to an officer on whom the penalty of compulsory retirement may be imposed. This form of penalty has been introduced to provide

for cases in which the continuance of a Government servant in service is considered to be undesirable but the extreme penalties of removal or dismissal, with the consequent loss of pension, is considered to be too severe.

The intention is that, persons on whom the penalty of compulsory retirement is imposed should ordinarily be granted the full compensation pension and retirement gratuity, admissible on the date of compulsory retirement. Where, however, the circumstances of a particular case so warrant, the authority competent to impose the penalty of compulsory retirement may make such reductions in the pensionary benefits, within the limits prescribed, as it may think appropriate. In the case of a person governed by the New Pension Rules, reduction may be made either in the retirement gratuity or in the pension or in both."

(G.I.M.F. letter No.F.7(22)-E.V/56 dated 3rd June, 1957)

In view of the above provision of the rules, we find that the penalty imposed by the disciplinary authority to cut in pension upto 25% pension and gratuity both, is permissible and is not illegal as contended by the learned counsel for the applicant.

8. As regards the contention of the applicant that the applicant was found in drunken condition in his room of the Inspection Bungalow which is not a public place, We find that the applicant was deputed for official duties during the period the incident had taken place and, therefore, till he ^{is} returned back to his headquarters he was supposed to be in official duties. Rule 22 of CCS(Conduct)Rules clearly provides that a Government servant shall not be under the influence of any intoxicating drink or during the course of his duty and shall also take due care that the performance of his duties at any time is not affected in any way by the influence of such drink. Therefore, the finding of the enquiry officer that the applicant has ^{committed} misconducted himself against the provisions of Rule 22 of CCS(Conduct) Rules, cannot be interfered with. In this view of the matter, the contention raised by the applicant has no merit and is rejected.

9. For the reasons recorded above, we do not ^{find any} merit in the OA and same is dismissed. No costs.

G. Shanthappa
(G. Shanthappa)
Judicial Member

M. P. Singh
(M. P. Singh)
Vice Chairman

*Filed
20/11/57*