

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 575 of 2001

Jabalpur, this the 25th day of June, 2004

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

P. Haridas, S/o. Shri K.T.P. Nair,
aged : 52 years, Occupation : Lower
Division Clerk, Account - Section,
Centre Head Quarter : 3, EME Centre,
Bhopal, R/o. A-37, New Bairagarh,
Bhopal.

... Applicant

(By Advocate - None)

V e r s u s

1. Union of India,
through : Secretary,
Ministry of Defence,
Govt. of India, New Delhi.

2. Major General, EME Central
Command, Lucknow (UP).

3. Commandant, Central Headquarters,
3 EME Centre, Bhopal.

... Respondents

(By Advocate - Shri Om Namdeo)

O R D E R

By Madan Mohan, Judicial Member -

None is present for the applicant. Since it is an old case of 2001, we proceed to dispose of this Original Application by invoking the provisions of Rule 15 of CAT (Procedure) Rules, 1987. Heard the learned counsel for the respondents and perused the records carefully.

2. By filing this Original Application the applicant has claimed the following main reliefs :

"a) to call for entire record of the subject matter and to writ direct/order the respondents to quash the impugned order (A/1) dated 27.11.1999, which is passed without observing the D.E. procedure and not consonance with Rules and so illegal and to quash the order dtd. 10.10.2001 (A/18) passed in appeal by respondent No. 2 without considering the facts and illegality of order A/1 dated 27.11.99/ 4.12.99,

b) to issue a writ/direction/order to the respondents to not to affect recovery of the amount illegally and arbitrarily mentioned in the impugned order,

- c) to order for refund the amount illegally recovered from the applicant in compliance to impugned order,
- d) to order respondents to pass the order of regularisation of suspension period as Duty period and to pay the balance amount of pay and allowances as delay in conducting D.E. and keeping pending for more than 7 years for none of fault of applicant,
- e) to order the respondents to post the applicant as UDC and to pay him his due claims."

3. The brief facts of the case are that the applicant was initially appointed as a Civilian employee on the post of Lower Division Clerk on 19.2.1962. He was promoted on the post of Upper Division Clerk in the year 1977. The applicant was posted in Accounts/Finance Section where the monthly bills of Civilian employees employed in the Central H.Q. are prepared by the staff posted in the Section. The bills are prepared by LDCs and the role of UDC is to supervise the work of LDCs. The prepared bills are sent to the office of Superintendent and after necessary checking forwarded to Account Officer for approval. The respondent No. 3 vide his letter dated 14.3.1992 issued the memorandum of charge sheet against the applicant for alleged committing the misconduct of demanding excess amount from employees while preparing the monthly pay bills of civilian persons resulting into double irregular payments and similarly in cases of GP Fund, LTCs and medical claims. The respondent No. 3 vide order dated 31.08.1992 issued the suspension order of the applicant on the ground of pendency of disciplinary proceedings. Since after the suspension order another charge sheet was again issued to the applicant vide letter dated 1.9.1992. The enquiry officer was appointed. The respondents while holding the departmental proceedings in the year 1993 not provided the copies of requisite documents and also did not proved the documents with alleged misconduct with the support of



evidence of any witness. They also did not provided the copy of the enquiry report to the applicant. The respondent No. 3 issued the 3rd memorandum dated 16.2.1999, with the articles of charges to conduct the departmental enquiry for the same charges as previously ordered vide memorandum dated 14.3.1992 and memorandum dated 1.9.1992. The applicant submitted his reply. The enquiry was conducted and again the copy of the enquiry report was not submitted to the applicant. The applicant is unnecessarily put in under suspension for last seven years. The applicant also submitted that the de novo enquiry is not permissible under CCS (CCA) Rules. The applicant submitted an appeal against the prolonging suspension and non-finalisation of disciplinary proceedings already conducted in the year 1993. The respondents cannot legally initiate the departmental enquiry under Rule 14 of CCS (CCA) Rules, 1965 for the same set of charges. The first enquiry was held only to assess the total amount of irregularities in public fund account and the present enquiry is ordered under Rule 14 of CCS(CCA) Rules, 1965 to arrive at conclusion of the case against the applicant. The respondents have no legal idea and concept of departmental enquiry procedure or due to obstinacy do not want to follow the enquiry rules and initiated the third enquiry with malafide intention as to harass the applicant. The respondent No. 3 vide letter dated 27.11.1999 without having any proof of the allegations made in enquiry initiated vide memorandums dated 14.3.1992, 1.9.1992 and 16.2.1999 passed the order that the applicant was found guilty of the alleged charges. The penalty imposed on the applicant is reduction to lower post of LDC, without effecting future increments, penal recovery of Rs. 2500/- per month from the pay of December 1999 to the date of retirement that is upto 31.5.2000 and Rs. One Lakh to be recovered from the gratuity of the applicant at

the time of retirement. The applicant submitted his grievance dated 4.10.1999 to the respondent No. 3 on the method of enquiry conducted in disciplinary case against the civilian employee. The respondents vide order dated 4.12.1999 revoked the suspension order of the applicant. They have also started deduction of Rs. 2500/-. Aggrieved by the order of the disciplinary authority, the applicant has filed his appeal and the appellate authority did not decided the appeal within the reasonable time and atlast on 10.10.2001 rejected the appeal of the applicant. The departmental proceedings conducted by them and the orders passed by them are arbitrary, illegal and purverse.

4. It is argued on behalf of the respondents that the first memorandum of charge dated 14.03.1992 was issued for demanding excess amount while preparing monthly pay bills which resulted in double/irregular payments. An enquiry was ordered to enquire into the charges framed against the applicant vide letter dated 16th March, 1992. This enquiry was however, suspended by the disciplinary authority in March, 1992 awaiting for further details from CDA, Central Command on the Super Review. After detailed checking of accounts, DCDA, Central Command, Meerut revealed financial irregularities amounting to Rs. 50,200/-. The applicant was placed under suspension with effect from 31st August, 1992 and a fresh memorandum of charge was served to him under Rule 14 of CCS(OC) Rules, 1965. Subsequently an enquiry was ordered by the disciplinary authority, which detected financial irregularities amounting to Rs. 2,15,084/- and the applicant pleaded guilty for the same. The applicant was provided with all requisite documents except secret/confidential nature during the course of enquiry. Since the total

irregularities amounting to Rs. 3,44,346/- were detected as per the staff court of enquiry proceedings, a fresh memorandum of charge dated 16th February, 1999 was issued and an additional enquiry was conducted by the disciplinary authority. The applicant was proved guilty of the charges framed against him. During the enquiries held the applicant confessed his guilt and irregular practice carried out by him with an intention to defraud and embezzle Government funds and deposited a sum of Rs. 79,543/- only, willingly without any pressure or compulsion from the disciplinary authority/Department. The disciplinary authority, after having carefully examining the enquiry proceedings submitted by the enquiry officer and relevant documentary evidence and also after due consideration of representation submitted by the applicant has awarded the penalties of reduction to lower post of LDC in the scale of Rs. 3050-4590/- fixing the pay at maximum, i.e. Rs. 4590/- and the reduction will not have effect of postponing the future increment of pay and also penal recovery of Rs. 2500/- per month w.e.f. December 1999 to the date of retirement, i.e. upto 31st May, 2002 and Rs. 1,00,000/- to be recovered from the gratuity at the time of retirement to make good the loss of Government money. The applicant had submitted an appeal on 19th January, 2000, wherein the appellate authority vide order dated 10th October, 2001 has rejected the appeal of the applicant. Due opportunity of hearing was given to the applicant and no irregularity or illegality was committed in conducting the departmental enquiry and in passing the impugned orders.

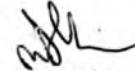
5. After hearing the learned counsel for the respondents and on careful perusal of the records, we find that initially the memo of charges was issued to the applicant



on 14th March, 1992 but subsequently after enquiry and on the orders of the higher authorities that some irregularities of huge amount was detected, the second memo of charges dated 1.9.1992 was issued. On further detection the total irregularities was amounting to Rs. 3,44,346.55 and hence a fresh memorandum of charge dated 16.2.1999 was issued. There is no irregularity or illegality in issuing these three charges. Initially the respondents detected the irregularities of a certain amount and after the enquiry it was found that the applicant had committed irregularities of a very huge amount and caused a heavy loss to the Department. Hence, subsequently the respondents issued the other memo of charges which is perfectly legal and justified. The applicant was given due opportunity of hearing. He submitted his representations and this were duly considered by the authorities concerned. We also find that the applicant has deposited a sum of Rs. 79,543/- towards the aforesaid irregularities committed by him. The same was deposited by the applicant without any pressure or compulsion from any authorities. This is not a case of no evidence. The charges are very serious against the applicant, as he has embezzled a very huge amount of public money. The orders of the disciplinary authority and the appellate authority are perfectly speaking orders. It is a settled legal proposition that the courts/Tribunals cannot reapprise the evidence and also cannot go into the quantum of punishment unless it shocks the conscience of the Courts/Tribunals.

6. Hence we are of the considered opinion that the applicant has failed to prove his case and the Original Application is liable to be dismissed as having no merits. Accordingly, the Original Application is dismissed. No costs.

(Madan Mohan)
Judicial Member
"SA"


(M.P. Singh)
Vice Chairman