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CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 859 of 2001

Jabalpur, this the 10th day of May, 2004

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

1. Balwant Singh, S/o. late Shri Tundasingh aged about 61 years, Ex-junior Checker, Bank Note Press, Dewas, resident of 444, Vikas Nagar, A.B. Road, Dewas (MP) (Deceased) Through LRs -
2. Smt. Puja Devi Rajput, W/o. late Balwant Singh Rajput, aged about 47 yrs., R/o. 444, Vikas Nagar, AB Road, Dewas.
3. Suraj Singh, Rajput (Minor), Through Natural Guardian Mother Smt. Puja Devi Rajput, aged about 12 yrs. R/o. 444, Vikas Nagar, AB Road, Dewas. ... Applicants

(By Advocate - Shri S.P. Pathak on behalf of Shri M.K. Verma)

V e r s u s

1. Union of India, through Secretary, Department of Finance, Ministry of Finance, Govt. of India, New Delhi.
2. General Manager, Bank Note Press, Dewas.
3. Hiralal, Chief Chemist, (Mukhya Rasayangya) and Administrative Officer, Bank Note Press, Dewas (M.P.). ... Respondents

(By Advocate - None)

O R D E R (Oral)

By M.P. Singh, Vice Chairman -

None is present for the respondents. Since it is an old case of 2001, we proceed to dispose of this Original Application by invoking the provisions of Rule 16 of CAT (Procedure) Rules, 1987. Heard the learned counsel for the applicants.

2. By filing this Original Application the applicants

W have claimed the following main reliefs :

"(i) to quash the penalty order dtd. 25.8.2000 (Annexure A-1) so far as it relates to the imposition of double penalty i.e. deducting pension to the tune of 20% and gratuity to the tune of 20% in the interest of justice.

(ii) to declare rule 40 of the CCS(Pension) Rules, 1972 as ultravires to the Constitution of India,

(iii) to direct the respondents to grant the applicant full gratuity with an interest of 18% and arrears of full pension with interest of 18% and further be pleased to direct the respondents to pay full pension to the applicant in the interest of justice."

3. The brief facts of the case are that the husband of applicant No. 2 died after retirement. While the husband of the applicant No. 2 was working as Junior Checker in the Bank Note Press, Dewas, he was issued with a charge sheet vide memo dated 31.3.1997 on the charges of giving false declaration about his marriage/wife in as much as in the family particulars he mentioned his wife's name as Smt. Kasturi Bai instead of Smt. Kamla Bai and availed LTC benefit in the name of Smt. Kasturi Bai who was not the legally wedded wife for the year 1978-79, 80-81, 82-83, 84-85 and 86-89 and also for making false statement in the Government servant Court. The deceased denied the charges. On denial of the charges an enquiry was held by the disciplinary authority. The enquiry officer investigated into the charges and concluded the enquiry by holding that the charges are proved. The copy of the enquiry report was sent to the applicant No. 1 to make a representation vide memo dated 23.9.99. The applicant No. 1 submitted his representation on 18.11.1999 against the enquiry report. The disciplinary authority after taking into consideration the finding of the enquiry officer, the representation of the applicant and also going through the facts and circumstances of the case imposed the penalty of compulsory retirement from service on the applicant No. 1 with deduction of 20% of pension and that gratuity. It is against this order the applicant No. 2

came before this Tribunal by filing this OA and claiming the aforesaid reliefs.

4. During the course of argument the learned counsel for the applicants has stated that the applicant No. 1 has been imposed double penalty i.e. (i) payment of 80% pension and (ii) payment of 80% of gratuity under Rule 40 of the CCS(Pension) Rules.

5. We have considered the contention of the applicants and we find that the applicant No. 1 while working as Junior Checker was issued with a charge sheet. An enquiry was held against him and the charges were proved. The copy of the finding of the enquiry officer was sent to him to make the representation. He has submitted the representation and the disciplinary authority has passed the order dated 25th August, 2000 imposing the penalty. The applicant No. 1 was given the opportunity of hearing. Principles of natural justice were observed by the respondents. The enquiry was held according to the rules and laid down procedure. It is a settled legal proposition that the Courts/Tribunals cannot reappraise the evidence and also cannot go into the quantum of punishment unless it shocks the conscience of the Tribunals/Courts. We also find that Rule 40(1) of CCS(Pension) Rules provides as such :

"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."

By plain reading of Rule 40(1) of the CCS(Pension) Rules means that both the penalty i.e. reduction in pension as well as reduction in gratuity can be imposed on a Government servant who has been compulsorily retired under Rule 40 of CCS(Pension) Rules. Therefore the contention of



cannot be imposed
the applicants that this double punishment under Rule 40/
is not correct and is accordingly rejected.

6. For the reasons recorded above, we do not find any ground to interfere with the punishment order passed by the respondents. Accordingly, the Original Application is dismissed. No costs.


(Madan Mohan)
Judicial Member

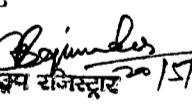

(M.P. Singh)
Vice Chairman

"SA"

पृष्ठांकन से ओ/ज्या.....जबलपुर, दि.....
परिविलियि दाता/दिवारा/—

- (1) राधिक, उच्च न्यायालय अदान, नियम, जबलपुर
- (2) आवेदक श्री/श्रीमती/कु/.....के काउंसल M.L. Verma
- (3) दक्षिण श्री/श्रीमती/कु/.....के काउंसल S.M. Mohammad Wilson
- (4) विधायक, एवं प्रतिनिधि, जबलपुर व जल्ली

सूचना एवं आवश्यक कार्यालयी हेतु


बजिंदर सिंह

कम रजस्ट्रार 15/04


20/04