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CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 575 of 2000

Jabalpur, this the 17th day of February, 2004

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

Anand Kumar Soni, S/o.
Late Shri B.P. Soni, aged about
42 years, Steno Gr.III, Gr. No.
365/3, Parel Line, GCF Estate,
Jabalpur.

... Applicant

(By Advocate - Shri S. Paul)

V e r s u s

1. Union of India,
through Secretary,
Ministry of Defence,
New Delhi.
2. The Chairman/DGOF,
Ordnance Factory Board,
10-A, Shahid Khudi Ram Bose
Marg, Calcutta-700 001.
3. The General Manager,
Gun Carriage Factory,
Jabalpur.

... Respondents

(By Advocate - Shri P. Shankaran)

O R D E R (Oral)

By M.P. Singh, Vice Chairman -

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

"(ii) Set aside the order dt. 30.8.1997 Annexure
A-1 and order dated 08.06.99 Annexure A-2.

(iii) Direct the respondents to provide all
consequential benefits to the applicant as if the
impugned orders are never passed."

2. The brief facts of the case as stated by the
applicant are that the applicant is working as Stenographer
in Gun Carriage Factory, Jabalpur. He has been allotted a
Government accommodation with effect from 6.9.1993. He was
also being paid house rent allowance by the respondents,
although it is not admissible to him under the rules. A

charge sheet was issued to him on 27.11.1996 under Rule 16 of CCS(CCA) Rules, 1965. The applicant has submitted his representation dated 14.12.1996 stating that the respondents have allotted the said Government accommodation to him and therefore allotment of Government accommodation to the applicant was within the knowledge of the Government/respondents. He has also stated that he has already submitted applications dated 30.11.1994, 19.08.1995 and 28.10.1996 to the respondents requesting them not to grant house rent allowances to him. However no action was taken by the respondents ^{stop} to ~~pay-met~~ Rs. 250/- as house rent allowances to the applicant. The respondents vide their order dated 30th August, 1997 have imposed the penalty on the applicant by ^{for one year} stoppage of one increment/without cumulative effect. The applicant has filed an appeal before the appellate authority and the appellate authority vide its order dated 8th June, 1999 have rejected the appeal of the applicant.

3. Heard the learned counsel for the parties and perused the records carefully.

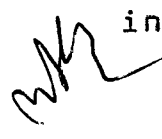
4. The learned counsel for the applicant has submitted that ^{with} although it is an admitted fact that the applicant was allotted a Government accommodation ^{but} at the same time he was also being paid the house rent allowances. On number of occasions the applicant has informed the respondents to ~~stop~~ ^{stop} ~~payment~~ ^{of} the house rent allowances. Depsite that the respondents have continued to pay the house rent allowances from 1993 to 1996. He has also submitted representations to the respondents and brought out this fact to their notice. But the respondents have not dealt with the issues raised by the applicant and without application of mind the disciplinary authority and the appellate authority have passed the orders imposing the penalty on the applicant. Therefore the orders

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passed by the disciplinary authority and the appellate authority are liable to be set aside and quashed.

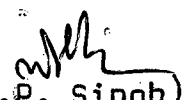
5. On the other hand the learned counsel for the respondents states that there is a due application of mind by both the disciplinary authority and the appellate authority. The applicant has never submitted any application to the respondents informing that the house rent allowances which is being paid to him is not admissible under the rules. All the documents submitted by him in support of his claim of having informed the respondents are fabricated one ^{an} and ~~after~~-thought.

6. We have given careful consideration to the rival contentions of the parties. We find that the applicant was allotted a Government accommodation and also was paid the house rent allowances during the period from 1993 to 1996. The applicant has stated that he has given number of applications during the above said period to the respondents informing them that the house rent allowances at the rate of Rs. 250/- per month is not admissible to him and the same should be stopped. The disciplinary authority while considering the representation of the applicant has not denied this fact and has not discussed this issue at all. Similarly the appellate authority has also not applied its mind and also not discussed the issue raised by the applicant in his representation. Thus there is no due application of mind, principles of natural justice have been violated, and there is also violation of Rule 16 of CCS(CCA) Rules, 1965. The orders passed by the disciplinary authority and the appellate authority are not sustainable in the eye of law.



7. Accordingly, the order dated 30.08.1997 passed by the disciplinary authority and the order dated 8th June, 1999 are quashed and set aside. We remit the case back to the disciplinary authority to proceed against the applicant in accordance with rule and law. Hence the Original Application stands disposed of. No costs.


(G. Shanthappa)
Judicial Member


(M.P. Singh)
Vice Chairman

पृष्ठांकन सं ओ/न्या.....जवलपुर, दि.....

पलिलिधि जाचे शिवा:-

(1) सचिव, उच्च न्यायालय जाचे जवळील, जवलपुर

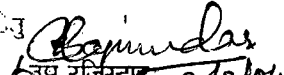
(2) काउंसलर श्री/श्री. सी/बु.....को काउंसल S. Paul

(3) काउंसलर श्री/श्री. सी/बु.....को काउंसल P. Shankar.

"SA"

(4) को. न्या. को. न्या. न्यायालय जाचे शिवा:-

सूचना एवं आवश्यक कार्यवाही हेतु


उप रजिस्ट्रार 28/2/04

Furda
on
23.2.04