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**CENTRAL ADMINISTRATIVE TRIBUNAL,
CHANDIGARH BENCH,
CHANDIGARH.**

O.A.No.060/00806/2014

Date of Decision : 18.8.2015
Reserved on: 31.07.2015

**CORAM: HON'BLE MRS. RAJWANT SANDHU, ADMINISTRATIVE MEMBER
HON'BLE DR. BRAHM A. AGRAWAL, JUDICIAL MEMBER**

Gurmukh Singh S/o Sh. Pal Singh, R/o H.No.2587, Sector 2Y, Chandigarh
working as Assistant Fitter with Chandigarh Transport Undertaking, Chandigarh.

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Applicant

Versus

1. The Union of India through its Home Secretary-cum-Secretary Transport, Chandigarh Administration, U.T. Secretariat, Sector 9, Chandigarh.
2. The Divisional Manager, Chandigarh Transport Undertaking and Director Chandigarh Transport Undertaking, Chandigarh.

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Respondents

Present: Mr. Ram Naresh Ojha, counsel for the applicant
Mr. Aseem Rai, counsel for the respondents

O R D E R

HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)

1. This is the second round of litigation regarding penalty imposed on account of disciplinary proceedings against the applicant and the present OA has been filed seeking the following relief:-

“8 a) To modify the order dated 08.07.2014 (Annexure P-1) to the extend to quest the two increment and substance allowance during suspension period i.e. 06.08.2004 to 10.11.2004 passed by respondent no.1 whereby the appeal of the applicant has been partially dismissed and set aside the impugned order dated 15.03.2005 (Annexure P-2) passed by respondent no.2.

And further directing the respondents to:-

- i) restore two increments which has been illegally stopped / curtailed.

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ii) make payment during suspension period i.e. 06.08.2004 to 10.11.2004, which has been curtailed illegally, arbitrarily and

Any other order / direction which this Hon'ble Court deem fit and proper into the circumstances of the case, may be passed in favour of the applicant, in the interest of justice."

2. Averment has been made in the OA that the applicant is an employee of CTU since 06.04.1988. On 31.07.2004 he was on duty. One Sh. Prem Singh, Chowkidar, who was also on duty had purchased some bottles of liquor and kept them in the Almirah of the applicant. He took these bottles from the Almirah at the end of the work day i.e. at about 11.00 PM. Respondent no.2 along with two Inspectors came for routine checkup. Upon the inquiry from the Chowkidar regarding the liquor, the Chowkidar narrated the facts and was allowed to take away the liquor bottles. However, on 04.08.2004, the Inspectors submitted the report regarding this matter and the applicant was placed under suspension vide order dated 06.08.2004 and charge sheeted on the same day (Annexure P-3). Formal inquiry was conducted in the matter and on the basis of the inquiry report (Annexure P-4) submitted on 05.11.2004, respondent no.2 vide impugned order dated 15.03.2005 (Annexure P-2) punished the applicant. Aggrieved by this order the applicant filed appeal which was dismissed vide order dated 29.08.2011.

3. It has further been stated that the applicant then challenged the order dated 29.08.2011 by filing OA No.600/CH/2012 which was disposed of with direction to respondent no.1 to decide the appeal of the applicant after giving

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opportunity of being heard to the applicant (Annexure P-6). Respondent no.1 thereafter issued order dated 08.07.2014 (Annexure P-1) and reduced the penalty to stoppage of two increments instead of four increments and the remaining part of the impugned order dated 15.03.2005 was upheld.

4. In the grounds for relief it has, inter-alia, been stated as follows:-

- i) Respondent no.1 while deciding the appeal has not considered the material fact of the case i.e. the applicant has not committed any offence at all, as the alleged recovery of Wine bottles was from one Prem Singh (Driver-cum-Chowkidar). Recovery was not effected from the applicant. Upon interrogation Prem Singh, only disclosed the fact that after purchasing the Wine Bottles he kept them in the almirah. The almirah belongs to the applicant who used to keep the tools there. At the then end of work, Prem Singh taken back Wine Bottles and kept in his bag. Under malafide intention of the Supervisor, the entire case has been planted upon the applicant and finally applicant was punished for the offence which was never committed by the applicant.
- ii) Respondent no.2 while conducting the entire trial of the case, the main accused i.e. Prem Singh from whom the alleged recovery of Wine Bottles was affected, was neither made an accused or witness whereas there was no role of the applicant in the case and he was falsely implicated in the case. During departmental enquiry, the applicant was making request to call Prem Singh so that true fact could be verified. However, two increments were stopped instead of four increments remaining impugned order upheld, without assigning any reason for doing same. Respondent no.1 has passed non speaking order, there is no reason mentioned in the order for allowing the appeal partially thus the order dated 08.07.2014 deserves to be modified to the extent allowing two increments in favour of the applicant and also allow the payment during suspension period instead of subsistence allowance.

5. In the written statement filed on behalf of the respondents, the facts of the matter have not been disputed. It has further been stated that as per the directions of the C.A.T. in OA No.600/CH/2012, matter was decided on

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06.01.2014. The Appellate Authority afforded the opportunity of personal hearing on 08.07.2014 to allow the applicant to plead his defence in compliance to the order dated 06.01.2014 (Annexure A-6). The Appellate Authority duly considered all the facts of the case before deciding his appeal. During hearing the applicant alleged that it was a case of conspiracy against him, however he failed to produce any evidence in his support. Hence, the Appellate Authority by taking lenient view passed the impugned order dated 08.07.2014 (Annexure P-1).

6. Arguments advanced by the learned counsel for the parties were heard, when learned counsel for the applicant stated that the inquiry proceedings had been conducted without adequate opportunity to defend himself being afforded to the applicant as some of the hearings were held ex-parte. He stated that although the liquor bottles were found in the almirah of the applicant but it was Sh. Prem Singh who was responsible for them. Sh. Prem Singh had not been proceeded against nor his statement had been recorded by the Inquiry Officer. There was no independent witness but the Inspector had filed the report against the applicant and the penalty imposed upon the applicant was disproportionate to the offence if any committed by him.

7. Learned counsel for the respondents stated that the applicant had even admitted his fault before the Appellate Authority as was clear from the impugned order dated 08.07.2014. There was no defect in the conduct of the disciplinary proceedings and hence there was no ground to interfere with the order dated 08.07.2014. MS

● 8. We have given our careful consideration to the matter and are satisfied that the applicant was afforded adequate opportunity to defend himself and the order of the Disciplinary Authority as well as that of the Appellate Authority dated 08.07.2014 have been passed after due consideration of the inquiry report and affording personal hearing to the applicant. We conclude that there is no merit in this OA and the same is rejected. No costs.

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(RAJWANT SANDHU)
ADMINISTRATIVE MEMBER.

B. A. Agarwal
(DR. BRAHM A. AGRAWAL)
JUDICIAL MEMBER

Place: Chandigarh

Dated: 18-8-2015

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