

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

MA/310/00054/2019 in & OA/310/00104/2019

Dated Monday the 4th day of February Two Thousand Nineteen

**CORAM : HON'BLE MR. R. RAMANUJAM, Member (A)
HON'BLE MR. P. MADHAVAN, Member (J)**

Shri B. Venkatadri,
No. 167, 8th Street,
Modern City, Pattabiram,
Chennai 600072.

....Applicant

By Advocate M/s. P. Ulaganathan

Vs

1.Union of India rep by,
The Chairman DRDO & Secretary,
Department of Defence R & D,
DRDO Bhawan,
Rajaji Marg, New Delhi 110011.

2.Director of Personnel
Defence Research & Development Orgn,
Ministry of Defence,
DRDO Bhawan, New Delhi 110011.

3.The Director,
CVRDE, Avadi,
Chennai 600054.

4.Deputy Director,
Directorate of Personnel,
Ministry of Defence,
DRDO Bhawan,
New Delhi 110011.

....Respondents

By Advocate Mr. Su. Srinivasan

ORAL ORDER**(Pronounced by Hon'ble Mr. R. Ramanujam, Member(A))**

Heard. MA for condonation of delay is allowed. Delay condoned.

2. The applicant has filed this OA seeking the following reliefs :

"i. To call for the records on the file of Respondent No. 4 in connection with the charge memo no. DOP/08/11684/M/01 dated 30 January 2015 issued by him and quashed the same.

ii. To call for the records on the file of Respondent No. 2 in connection with his order No. DOP/08/11684/M/01 dated 20 September 2017 imposing the penalty of compulsory retirement on the applicant and quash the same;

iii. To call for the records on the file of Respondent No. 3 in connection with the letter No. CVRDE/EO/BV/SCT dated 19.12.2017 of R3 rejecting the appeal/review the penalty order and quash the same as illegal,

iv. or pass any other order or direction or grant any other relief in the circumstances of the case and thus render justice."

3. It is submitted that the applicant was imposed with a penalty of compulsory retirement on being found guilty of habitually remaining absent on will and at frequent intervals from 2008 to 2014 without any intimation or information and prior sanction of leave. The applicant filed Annexure A6 appeal thereagainst which was turned down by Annexure A7 communication dt. 19.12.2017 stating that as per Rule-22 of the CCS CCA Rules, 1965, no appeal would lie against an order made by the President.

4. Learned counsel for the applicant would submit that the applicant had inadvertently captioned his representation as 'appeal'. A review of the order is permissible under Rule 29-A of CCS CCA Rules, 1965. Merely, because his representation was titled 'appeal', it ought not to have been rejected. The applicant is in possession of material not considered by the Inquiry Officer and accordingly,

the matter called for a review for which the President had adequate powers under the said Rule. Accordingly, the applicant would be satisfied if he is permitted to submit a review petition to the competent authority which may be directed to be disposed of in accordance with the rules within a time limit to be set by the Tribunal.

5. Mr. Su. Srinivasan, SCGSC takes notice for the respondents and submits that a review is permissible only if a new material had been found which could not be considered earlier. It is entirely for the applicant to prove that he is in possession of such material which had the effect of changing the nature of the proceedings and the penalty imposed. Subject to this, he would have no objection to the applicant filing a review petition under Rule 29-A.

6. Keeping in view the submission and without going into the substantive merits of the case, we deem it appropriate to permit the applicant to file a review petition to the competent authority under Rule 29-A of the CCS CCA Rules within a period of two weeks from the date of receipt of a copy of this order. On receipt of such representation, the competent authority shall consider the same in accordance with the law and the facts of the case and pass a reasoned and speaking order within a period of four months thereafter.

7. OA is disposed of with the above directions at the admission stage.

(P. Madhavan)
Member(J)

04.02.2019

SKSI

(R. Ramanujam)
Member(A)