

3) And grant of cost of these proceedings.

Appealate Authority dated 27.07.2015 (Annex-A-2) and order of on 12.06.2014 (Annex-A-2) of punishment issued by Disciplinary Authority issued to him on 29.05.2014 (Annex A-1), order and setting aside of Memorandum of Charges filed this O.A. on 29.08.2016 seeking quashing Shri Hemant Hardayal Whatwari has Per : Dr. Bhagwan Shahi, Member (Administrative)

ORAL ORDER

Order delivered on : 26.08.2019
Order reserved on : 20.08.2019

Advocate Ms. Usha Tanna

3. Regional Provident Fund Commissioner - I, Raghuji Nagar, Nagpur 440 009. (Appealate Authority), 132-A Ridge Road, Respondents (By Civil Lines, Akola 444 001.

2. Regional Provident Fund Commissioner-II/OIC, Sub Regional Office, 15-B Raghuraj Arcade, Bhavan, Raft Marg, New Delhi 110 001.

1. Government of India, Through the Secretary, Ministry of Labour and Employment, New Delhi, Shram Shakti Plaza, Opposite Emerald School, Akola Khand, Getai Nagar, Akola, Maharashtra 444 001. Advocate Shir T. Rahi (By Mr. Hemant Hardayal Whatwari, Age 37 years, - Service, R/o Flat No.2, 1st Floor, Wing-H, Emerald Occu

VERSUS

Advocate Shir T. Rahi (By

Applicant (By Plaza, Opposite Emerald School, Akola Khand, Getai Nagar, Akola, Maharashtra 444 001.

Mr. Hemant Hardayal Whatwari, Age 37 years, - Service, R/o Flat No.2, 1st Floor, Wing-H, Emerald Occu

CORAM : DR. BHAGWAN SHAHI, MEMBER (ADMINISTRATIVE) RAVINDER KAUR, MEMBER (JUDICIAL)

Dated this 28th day of August, 2019

ORIGINAL APPLICATION NO. 2277/2016

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, CAMP AT NAGPUR

OA No. 2277/2016

Authority has confirmed the order of the

2(c). He further claims that the Appellate

returned cheques to him in time.

did not handover the letters of employees for

because of Section Supervisor Mr. Bhagat who

stating therefore that the delay had happened

submitted his explanation on 01.04.2014

payment of some returned cheques. He

of intimation to Accounts Group for release of

seeking his explanation about delay in release

memorandum to the applicant on 05.03.2014

2(b). The respondent No.2 had issued a

cumulative effect.

two increments of pay from 01.07.2014 without

resulted in punishment to him of withholding

information, which in spite of his reply

29.05.2014 based on false and incomplete

issued a memorandum of charges to him on

Commissioner-II, Sub Regional Office, Akola

Respondent No.2 i.e. Regional Provident Fund

2(a). The applicant has stated that

2. Summarized facts:

Memorandum of Charge was issued to him by the
Sect'l Assistant with Respondent No. 2. The
3(c). the applicant has been working as Sr.

contained that -

their reply and during arguments have
The respondents and their counsel in
Therefore, the O.A. should be allowed.
justice, amounting to abuse of law.
case has violated principles of natural
without giving him opportunity to defend his
3(b). imposition of the punishment on him

has been imposed on him; and
applicant to defend his case, the punishment
inquiry and without giving opportunity to the
conduct of inquiry but without conducting an
information. The applicant had requested for
him based on false, incomplete and vague
3(a). the punishment has been imposed on

contained that -

The applicant and his counsel have

3. Contentions of the parties:

the facts. Hence this O.A.
going into depth of the case and considering

of the superintendents within three days but the to show cause for not replying to the orders memorandum on 05.03.2014 asking the applicant 3(e). the respondent No.2 had issued a

awarded to him;

defend his case before the punishment was iniquity. He has been provided opportunity to applicant had not requested for conduct of an blame on Section Supervisor, Shri Bhagat. The 09.01.2014. In his reply dated 01.04.2014, cheques dated 23.10.2013, 24.10.2013 and release of payment to employees of returnd Accounts Group and in attending to letters for delay in sending issue intimation to the sought his explanation on 20.02.2014 about 3(d). earlier the respondent No.2 had

also denied;

the order of the Disciplinary Authority is the facts, the Appellate Authority confirmed going into depth of the case and considering denied. Also his allegation that without based on false and incomplete information is claim of the applicant that it had been issued Disciplinary Authority on 29.05.2014. The

applicant did not reply to it within the time given. In his reply on 01.04.2014 he claimed that the letters received from the employees were given to him by the Section Supervisor on 10.02.2014 and the reissue intimation was put up by him on 14.02.2014. To the memorandum of charge issued on 29.05.2014, he replied on 10.06.2014 denying the charge framed against him; and

3(f). the applicant has wilfully, repeatedly violated the office procedure and has no respect for it. He never bothered to reply in time to the Memorandums and has always tried to shift the blame on SS (Cash). His performance has been identified as the worst performer. Under Rule 16 of the CCS (CCA) Rules, it was not necessary to conduct an inquiry against the applicant for imposing the minor penalty, which will not adversely affect his pension. Therefore, the O.A. should be dismissed.

4. Analysis and conclusions:

4(a). We have perused the O.A. memo, reply filed by the respondents dated 21.07.2017 and

considered the contentions advanced by both the advocates on 20.08.2019. On their analysis our conclusions are as follows:

4(b). The main issue involved in the present O.A. is whether the minor penalty imposed on the applicant by the Disciplinary Authority vide order dated 12.06.2014 and confirmed by the Appellate Authority on 27.07.2015 is justified. Our study of the case record and consideration of the submissions of the respondents clearly bring out serious lapses noticed by the respondents in working of the applicant. Because of this, he had been issued several Memorandums but the applicant either did not submit any reply or did it late.

4(c). The Assistant Provident Fund Commissioner had issued a Memorandum to the applicant on 05.03.2014 asking him to show cause within three days as to why no reply had been submitted by him to lawful and reasonable orders of his superiors. When further time was allowed to him, the reply was given only on 01.04.2014 falsely claiming that he had received the letters from the employees regarding release of payment on the returned cheques from the Section Supervisor (Cash) on 10.02.2014 and he had put up them on 14.02.2014.

4(d). However, the note issued by the Assistant Provident Fund Commissioner confirmed that the letters of the employees were marked to him on 24.10.2013. Therefore, the claim of the applicant that he replied on that issue in time is not correct. In his reply to the charge-memo, the applicant tried to shift the blame for the delay on the Section Supervisor Shri Bhagat who in fact had reported about the applicant's delay in sending reissue intimation to the accounts ground and letters of the employees for release of payment on the returned cheques.

4(e). In his reply to the Memorandum of Charge on 10.06.2014, the applicant claimed to have already replied to the charges in his representations dated 01.04.2014 and 04.04.2014, which were actually in response to the show cause notice issued to him earlier before the memorandum of charge was issued. Thus this reply of the applicant to the memorandum of charge was confusing and evasive on the actual charge.

4(f). From these facts it is clear that the applicant did not reply to the show cause notice and earlier memorandums in time from October, 2013 till first week of April, 2014. His reply to the Memorandum of Charge was also evasive, vague, confusing and only an attempt to shift the

blame for his own lapses on his Section Supervisor. Thus he has displayed indisciplined behaviour and neglect of work.

4(g). In his submissions in the O.A. also no other ground has been mentioned by the applicant except stating that the punishment has been awarded to him based on false, incomplete and vague information and without giving him opportunity to defend. The Disciplinary Authority issued the memorandum of charge to the applicant on 29.05.2014 and after considering his reply of 10.06.2014, the order of punishment was passed on 12.06.2014. Hence the Disciplinary Authority was quite justified in awarding of the punishment. The claim of the applicant that he had not been provided adequate opportunity to defend himself has no substance. It is a false and misleading claim of the applicant.

4(h). The punishment of withholding of two increments of pay without cumulative effect awarded by the Disciplinary Authority has also been confirmed by the Appellate Authority. As provided under Rule 16(1) of the CCS (CCA) Rules, for imposition of the minor penalty, conducting of detailed inquiry was a decision to be taken by the disciplinary authority, if it feels it necessary, otherwise it is not required. This is

also the view taken in the following six decisions:-

(i). P.B. Chandrasekar Vs. Union of India and another {(1992) 20 ATC 723},

(ii). Mohar Singh Vs. Union of India & another (1987(3) SLR 782,

(iii). Sushil Kumar Chakraborty Vs. Director of Postal Services and others, Civil Revision Case No.3471/1960 decided on 21.11.1962,

(iv). D. Mangaleswaran Vs. Union of India and others {(1990) 13 ATC 123 (II)},

(v). State of Maharashtra and others Vs. Ramrao Yadaorao Nandurkar {2015(145) FLR 643}, and

(vi). B.D. Gupta Vs. State of Haryana through Chief Secretary to Govt. Haryana State, Chandigarh, 1970 LAB. I.C. 170 (Vol.3, C.N.44.

In this case the Disciplinary Authority did not take such a decision to conduct any detailed inquiry.

4(i). We find that during these proceedings, the applicant was provided adequate opportunity of defence, the procedural requirements were observed and principles of natural justice complied with. We do not find any infirmity in them in terms of compliance with the procedural

requirements and principles of natural justice. In conclusion, we find that the applicant has miserably failed in making out a case in the O.A., which is a wasteful exercise carried out by the applicant. There is no merit in the O.A. and deserves dismissal.

5. Decision :

The O.A. is dismissed. No costs.

(*Ravinder Kaur*)
Member (Judicial)

(*Dr. Bhagwan Sahai*)
Member (Administrative)

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29/8/19