

**CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, CAMP AT NAGPUR**

**ORIGINAL APPLICATION No. 2277/2016**

**Dated this Wednesday, the 28<sup>th</sup> day of August, 2019**

**CORAM : DR. BHAGWAN SAHAI, MEMBER (ADMINISTRATIVE)  
RAVINDER KAU, MEMBER (JUDICIAL)**

**Mr. Hemant Hardayal Vhatwar, Age 37 years,  
- Service, R/o Flat No. 2, 1<sup>st</sup> Floor, Wing-H,  
Plaza, Opposite Emerald School, Akoli Khurd,  
Nagar, Akola, Maharashtra 444 001.**  
- Applicant (By) **Advocate Shir T. Rahul**

**VERSUS**

**1. Government of India, Through the Secretary,  
Labour and Employment, New Delhi,  
Bhavan, Rafi Marg, New Delhi 110 001.**  
Ministry of Shram Shakti

**2. Regional Provident Fund Commissioner-II/OIC,  
Sub Regional Office, 15-B Raghuraj Arcade,  
Lines, Akola 444 001.**  
Civil

**3. Regional Provident Fund Commissioner - I,  
(Appellate Authority), 132-A Ridge Road,  
Raghuraj Nagar, Nagpur 440 009.**  
- Respondents (By) **Advocate Ms. Usha Tanna**

**Order reserved on : 20.08.2019  
Order delivered on : 28.08.2019**

**ORAL ORDER**

**Per : Dr. Bhagwan Sahai, Member (Administrative)**

Shri Hemant Hardayal Vhatwar has filed this O.A. on 29.08.2016 seeking quashing and setting aside of Memorandum of Charges issued to him on 29.05.2014 (Annex A-1), order of punishment issued by Disciplinary Authority on 12.06.2014 (Annex-A-2) and order of Appellate Authority dated 27.07.2015 (Annex-A-3) and grant of cost of these proceedings.



Summarized facts:

2.

2 (a). The applicant has stated that

Respondent No.2 i.e. Regional Provident Fund Commissioner-II, Sub Regional Office, Akola issued a memorandum of charges to him on 29.05.2014 based on false and incomplete information, which in spite of his reply resulted in punishment to him of withholding two increments of pay from 01.07.2014 without cumulative effect.

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

memorandum to the applicant on 05.03.2014 seeking his explanation about delay in release of intimation to Accounts Group for release of payment of some returned cheques. He submitted his explanation on 01.04.2014 stating therein that the delay had happened because of Section Supervisor Mr. Bhagat who did not handover the letters of employees for returned cheques to him in time.

2 (c). He further claims that the Appellate Authority has confirmed the order of the Disciplinary Authority on 27.07.2015 without



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

### 3. Contentions of the parties:

The applicant and his counsel have contended that -

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

3(b). Imposition of the punishment on him without giving him opportunity to defend his case has violated principles of natural justice, amounting to abuse of law. Therefore, the O.A. should be allowed.

The respondents and their counsel in their reply and during arguments have contended that -

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



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

3(d). earlier the respondent No.2 had

sought his explanation on 20.02.2014 about delay in sending reissue intimation to the Accounts Group and in attending to letters for release of payment to employees of returned cheques dated 23.10.2013, 24.10.2013 and 09.01.2014. In his reply dated 01.04.2014, the applicant had simply tried to shift the blame on Section Supervisor, Shri Bhagat. The applicant had not requested for conduct of an inquiry. He has been provided opportunity to defend his case before the punishment was awarded to him;

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

H.

JD  
29/8/19