

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 1945/2003

New Delhi, this the 19th day of March, 2004

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE SHRI S.K.NAIK, MEMBER (A)

R.S. Aggarwal
s/o Shri (Late) Jiya Ram Aggarwal
C-47, Minto Road Complex
New Delhi - 110 002. Applicant

(By Advocate: Ms. Seema Nair, proxy of Mrs. Rani Chhabra)

Versus

1. Department of Personnel & Training
Through its Secretary
North Block
New Delhi.
2. Union Public Service Commission
Through its Secretary
Dholpur House
Shahajahan Road
New Delhi. Respondents

(By Advocate: Shri A.K. Bhardwaj)

O R D E R (Oral)

Justice V.S. Aggarwal:-

Applicant (R.S. Aggarwal) by virtue of the present application seeks setting aside of the order of 24.4.2002 passed by Respondent No.1 and to direct Respondent No.2 to promote the applicant to the post of Section Officer from the date of reversion to the post of Assistant and further to grant annual increments to him. He further seeks direction to Respondent No.2 to withdraw the suspension order and exonerate him fully.

2. When the matter had come up for hearing on 7.8.2003, the applicant did not press his prayer in Paragraph 8.5 of the application pertaining to the direction to Respondent No.2 to withdraw the

Ms Agg e

(C)

[2]

suspension order and for fully exonerating him but with respect to the other prayers, notice had been issued.

3. The applicant had been served with the following Articles of Charges:

Article-I

"Shri R.S. Aggarwal, Section Officer while functioning as incharge of Confidential-VII Section in Union Public Service Commission during the period from 18.8.98 to 14.7.99 failed to maintain absolute devotion to duty in that he did not carry out 100% verification of code-book, 'List of Present Candidates' & the corresponding answer books handed over to him by the dealing hands to ensure correctness of the fictitious roll numbers machine stamped on the answer books pertaining to following papers for Civil Services (Main) Examination 1998 conducted by the Commission and his gross negligence resulted in posting of incorrect marks against the Roll Nos. as reflected below against each paper which necessitated amendment to the result of the said examination.

(i) English Literature - 5 Candidates
Paper-II Roll Nos.
039915, 167053,
021507, 031356,
165185.

(ii) Telugu Literature - 4 Candidates
Paper-I Roll Nos.
013320, 013327
013284, 013319.

By his above misconduct, Shri R.S. Aggarwal, SO has exhibited gross negligence & lack of devotion to duty & thereby violated rule 3(1)(ii) of CCS (Conduct) Rules 1964.

Article-II

Shri R.S. Aggarwal, SO while functioning as incharge of C-VII Section exhibited gross negligence & dereliction of duties assigned to him in that in reply to a specific query from JS(C) vide note dated 19.3.99 to sort out discrepancy arising due to wide variation of marks in English Literature Paper-I & English Literature Paper-II pertaining to

18 Ag

Roll No.031356, he did not carry out any scrutiny & issued a false certificate stating that there was no mistake in coding viz., allotment of fictitious roll numbers on answer books, while subsequently on thorough re-verification, it was found that coding mistake had occurred in five cases including roll number 031356 for English Literature Paper-II which had been specifically referred for verification.

The above misconduct on the part of Shri R.S. Aggarwal, SO amounts to gross dereliction of duties which are violative of rule 3(1)(ii) of CCS (Conduct) Rules, 1964."

4. The inquiry was handed over to Deputy Secretary who was the inquiry officer. The inquiry officer held that Article of Charge No.1 was established whereas Article of Charge No.2 was not established. The disciplinary authority recorded a note of disagreement and exoneration of the applicant was called. Thereupon after consultation with the Union Public Service Commission, the penalty order was passed which reads:

"NOW THEREFORE, the President orders that the pay of Shri R.S. Aggarwal, Assistant be reduced by one stage from Rs.7,775/- to Rs.7,600/- in the time scale of pay of Rs.5500-175-9000/- for a period of two years with further direction that he will not earn increments of pay during the period of reduction and on expiry of such period, the reduction will have the effect of postponing the future increments of his pay.

This order shall take effect from the date on which it is served on Shri R.S. Aggarwal, Assistant, UPSC and a copy of this order shall be kept in his CR folder."

18 Ag/c

5. The application has been contested. Respondents contend that procedure prescribed in law had been followed. The findings are based on the material on the record and further that order has been passed by the appropriate authority.

6. We have heard the parties' counsel.

7. The learned counsel for the applicant contended that the order in question could not have been passed by the Deputy Secretary. We have carefully gone through the said aspect of the matter. It clearly shows that order was passed in the name of the President and signed by the Joint Secretary (Administration & Vigilance), Union Public Service Commission. It is obvious that order has been passed by the appropriate authority and simply been authenticated in the name of the disciplinary authority by the concerned Joint Secretary. We find nothing illegal in this regard.

8. The other submission which was pressed was that the findings arrived at are erroneous and applicant could not be held liable.

9. The position is well settled that in judicial review, this Tribunal is not sitting as Court of appeal over the orders passed by the disciplinary or any such administrative authority. The scope for interference would be only if there is a departure from the known procedure which caused prejudice, the findings are erroneous and perverse which no reasonable person would arrive at.

12
MS Ag

10. In the present case, the assertion as already referred to above against the applicant was that he was the Section Officer while functioning as Incharge of the Confidential-VII Section of the Union Public Service Commission. He failed to maintain devotion to duty and did not carry out 100% verification of code-book, "List of Present Candidates" and the corresponding answer books handed over to him by the dealing hands to ensure correctness of the fictitious roll numbers machine stamped on the answer books. He shows gross negligence in this regard pertaining to five candidates of English Literature Paper-II and four of Telugu Literature Paper-I. It was further alleged against him that while functioning as such, he did not carry out the scrutiny and issued a false certificate stating that there was no mistake in coding, viz., allotment of fictitious roll numbers on answer books.

11. The said findings were established from the material on record and it is not a case where it can be termed that there was no evidence on the record. Our attention has not been drawn to any such fact which may prompt us to conclude that the findings in this regard are erroneous or perverse.

12. No other argument has been raised.

13. Resultantly, the application being without merit must fail and is dismissed.

Sk
(S. K. Naik)
Member (A)

Ag
(V. S. Aggarwal)
Chairman