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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. No.2174/2003

This the 23rd day of April, 2004

HON'BLE SHRI V.K. MAJOTRA, VICE-CHAIRMAN (A)

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

J.S.Thakur,
Asstt, Section P-1, PB,
Office of Director Generral,
Doordarshan, Mandi House,
New Delhi-110001.

... Applicant

(Applicant in person)

-Versus-

1. Union of India,
Ministry of Information & Broadcasting,
Shastri Bhawan, New Delhi.

2. Registrar of News Paper of India
(Ministry of Information & Broadcasting),
West Block B, Wing No.2, R.K.Puram,
New Delhi. ... Respondents

(By Shri R.N.Singh, Advocate)

ORDER (ORAL)

Hon'ble Shri V.K. Majotra, Vice-Chairman (A)

Applicant had been working as UDC in the office of respondent No.2 (promoted to the post of Assistant and posted in Directorate General, Doordarshan consequently). It was alleged that he had left the office without proper permission and remained on unauthorised absence from 2.6.2003 to 25.7.2003. He was informed vide memoranda dated 3.6.2003 and 12.6.2003 that his absence was without permission and leaving headquarters in violation of conduct rules. Earlier on applicant had been issued two chargesheets dated 15.6.1982 and 29.10.1986 under rule 14 of the CCS (CCA) Rules, 1965. On 20.6.1994 penalty of removal from service was imposed upon the applicant. On

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appeal, the appellate authority vide order dated 24.5.1995 remitted the case to the disciplinary authority for de novo enquiry. Then, on 12.2.1997 the disciplinary authority awarded punishment of reduction of pay by five stages for five years. This time, on appeal, the appellate authority on 25.5.1999 remitted the case to the disciplinary authority for rectifying the procedural irregularity relating to disagreement of the competent authority with the findings of the enquiry officer on articles III, IV and V so as to supply copy of the reasons for dissenting to the applicant. Later, on 24.2.2000 punishment of reduction of pay by three stages was awarded to the applicant for three years by the disciplinary authority. On 9.4.2001, the appellate authority upheld the punishment of reduction of pay by three stages and ordered the period from 29.3.1982 to 9.2.1990 to be treated as period not spent on duty. OA No.548/2002 challenging Annexure R-7 dated 9.4.2001 relating to penalty of reduction to lower stage was dismissed. The present OA has been filed by the applicant challenging Annexure A-1 dated 26.5.2003 whereby applicant has been informed that on the basis of decision contained in Ministry's order dated 9.4.2001 his pay has been fixed vide order dated 24.7.2001 (Annexure R-8). Applicant has sought quashing of Annexure A-1 dated 26.5.2003.

2. According to the applicant, the ultimate punishment awarded vide order dated 9.4.2001 has not yet been challenged by him. Applicant has not challenged Annexure A-2 dated 4.10.1999 whereby his pay was fixed at

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Rs.4400/- in the revised scale of pay of Rs.4000-100-6000. Subsequently vide order Annexure R-8 dated 24.7.2001 the period from 29.3.1982 to 9.2.1990 has been treated as not spent on duty, while the period from 10.2.1990 to 10.12.1996 has been treated as spent on duty. It has been incorporated in that order that the period from 29.3.1982 to 10.12.1996 had also been treated as not spent on duty as per the earlier orders. His pay from 1.3.2000 would be Rs.5100/- for a period of three years and during this reduction he would not earn any increment and after the penalty the reduction would have the effect of postponing his increment of pay. Thus, the applicant's pay has been fixed at Rs.5400/- w.e.f. 1.12.1999. Applicant has not challenged this order either.

3. At the outset, the learned counsel of respondents contended that the present OA for re-fixation of applicant's pay suffers from res judicata as applicant had sought the same relief in OA No.548/2002. It is noticed that in the earlier OA applicant had sought relief against rejection of revision petition and payment of interest on salary/subsistence allowance for the period 29.3.1982 to 10.11.1996. The present OA is related to a fresh cause which has not been agitated and dealt with in the earlier OA. The objection relating to res judicata is rejected, therefore.

4. The applicant has contended that as the appellate authority had modified the penalty imposed upon him, respondents should have taken action in terms of FR

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29A for regulating his pay as if the order so modified had been made in the first instance. In this connection, the learned counsel of the respondents pointed out that the appellate authority has never set aside the orders of penalty as claimed by the applicant. The perusal of the orders of the disciplinary authority and the appellate authority confirms that the appellate authority did not set aside the orders of penalty imposed by the disciplinary authority. Earlier on the penalty of removal from service was set aside by the appellate authority. The provisions of FR 29A have nothing to do with the penalty of removal from service.

5. While applicant had been conveyed vide Annexure A-1 that on the basis of the decision contained in Ministry's order dated 9.4.2001, his pay had been fixed vide order dated 24.7.2001, applicant has not challenged the order dated 24.7.2001 (Annexure R-8) about which he had been informed vide Annexure A-1. Annexure A-1 acquires the nature of an innocuous communication. The real document is Annexure R-8 dated 24.7.2001 whereby applicant's pay has been fixed from time to time w.e.f. 28.3.1982 till 28.2.2000 and for a period of three years beyond 1.3.2000. Applicant has not been able to establish any infirmity in Annexure A-2 and Annexure R-8 which have remained unchallenged at the hands of the applicant.

5. Before parting, we have to observe that even though we do not find any wrong with Annexure R-8 dated 24.7.2001, if the applicant is entitled to any dues on

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the basis of this document, they must be paid by the respondents to him expeditiously and preferably within a period of three months from the date of communication of these orders.

6. The OA stands disposed of in the above terms.

No costs.

S. Raju

(Shanker Raju)
Member (J)

/as/

V.K. Majotra

(V. K. Majotra)
Vice-Chairman (A)

23.4.04