

27

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

O.A. NO.2497/2003

New Delhi, this the 31<sup>st</sup> day of March, 2005

HON'BLE MR. SHANKER RAJU, MEMBER (J)  
HON'BLE MR. S.K. MALHOTRA, MEMBER (A)

P.S. Sharma,  
S/o Late Shri Munshi Ram Sharma,  
Aged about: 60 years,  
Resident of: House No.117,  
Block No.14,  
Subhash Nagar,  
New Delhi – 110 027  
And Employed as:  
Deputy Stores and Purchase Officer in  
National Institute of Science Technology and Development Studies,  
New Delhi

... Applicant

(By Advocate: Shri B.B. Rawal)

Versus

Council of Scientific & Industrial Research (C.S.I.R.),  
Through: Its Director-General,  
Anusandhan Bhawan,  
2, Rafi Marg,  
New Delhi – 110 001

...

Respondent  
(By Advocate: Shri Praveen Swarup)

**ORDER (Oral)**

**BY HON'BLE MR. SHANKER RAJU, MEMBER (A):**

Applicant, who retired on superannuation on 30.11.2003 has impugned respondent's order dated 21.11.2002 imposing upon him a penalty of reduction of pay by two stages till his superannuation and loss of increments with cumulative effect. Order dated 10.6.2003 passed in appeal reducing the penalty of reduction of pay by one stage till the age of superannuation is also assailed.

2. Applicant, while working as Deputy Stores & Purchase Officer (Dy.SPO), has been charge-sheeted through a Memorandum issued under Rule 14 of CCS (CCA) Rules (hereinafter called the Rules) on eight counts relating to non-application of mind in putting up the proposals to the Purchase Committee. Applicant made a request for furnishing of certain documents to him required for his defence. While some of the documents were given, rest were denied. On

completion of the enquiry, the enquiry officer has held him guilty in his conclusion for non-application of mind and lighthearted approach to work by the applicant. On a representation, the major penalty imposed by the disciplinary authority has been reduced. The applicant has assailed the orders on following legal grounds: -

- (i) That the punishment is contrary to FR 29 and cannot be made effective till the date of retirement;
- (ii) One Man Fact Finding Committee to conduct the Preliminary Enquiry is without jurisdiction;
- (iii) Additional documents have been denied to the applicant and also the enquiry has been vitiated initiated at the behest of CVC;
- (iv) Rule 14 (13) of the Rules have been violated in so far as the statements have not been given;
- (v) Rule 14 (18) of the Rules is violated. Presenting Officer put leading questions to the witnesses.

3. On the other hand, the respondents have vehemently opposed the contentions and stated that the enquiry has been held as per the rules. There is no violation of procedure and the penalty imposed is commensurate with the misconduct. It is stated that the applicant is equally liable to be punished as other Members of the Purchase Committee have already been punished. Shri P. Swarup, learned counsel, contended that the documents have been provided to the applicant and his request for statements of PWs is an after thought. Lastly, it is contended that as the applicant was collectively responsible, the penalty is justifiable.

4. We have carefully considered the rival contentions of the parties and perused the material on record.


5. As per Rule 15 of CCS (Pension) Rules, 1972, pension is to be calculated on average emoluments of 10 months prior to attaining the age of superannuation. Applicant superannuated on 30.11.2003. The penalty imposed on him was on 21.11.2002 and was effective by two stages till his superannuation. Vide appellate authority's order the penalty has been reduced by one stage till attaining the age of superannuation. Such a punishment which does not specify the period for which the pay scale is reduced or increment is to be with-held is certainly a vague punishment and is contrary to FR 29 as well as MHA OM dated 7.2.1964 where it is mandatory that a clear intention of reduction for a specified period is to be given in the matter of reduction of pay etc. Before retirement on superannuation, the pay is calculated on


average emoluments of last 10 months. In this case, there would be no occasion for restoration of his pay. As such the Govt. servant is prejudiced and the punishment cannot be imposed in such a manner to have the effect of double jeopardy. Any reduction in pay amounts to reduction in pension also.

6. We also find that the applicant has not only sought copies of statements of witnesses recorded during the course of Fact Finding Inquiry but those statements have not been provided to him, but additional documents were also denied. It is cited law that when the relevancy of the documents is reflected, not only the documents relied upon but the documents which are required for defence and in possession of the Government shall also be served upon the delinquent. Non-supply of relevant documents shall be a denial of reasonable opportunity and cannot be countenanced in the light of the decision of the Hon'ble Supreme Court in the case of State of UP vs. Shatrughan Lal & Anr {JT 1998 Vol.6 SC 55}. Applicant who was put to general examination has not been put material in the form of evidence during cross-examination by the enquiry officer, which is a mandatory requirement of Rule 14 (18) of the Rules. This has greatly prejudiced the applicant as well as vitiated the enquiry. We do not propose to consider the factual aspects of the matter.

7. In the result, for the foregoing reasons, the OA is allowed. The impugned orders are set aside. The applicant is entitled to all consequential benefits which would be paid to him within two months from the date of receipt of the copy of this order. No costs.

7. The OA is disposed of in terms of aforesaid direction. No costs.

  
(S.K. Malhotra)  
Member (A)

  
(Shanker Raju)  
Member (J)

/pkr/