

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.2529 OF 2003

New Delhi, this the 24th day of August, 2004

**HON'BLE SHRI V.K. MAJOTRA, VICE CHAIRMAN (A)
HON'BLE SHRI SHANKER RAJU, MEMBER (J)**

Shri P.S. Verma
Accounts Officer (Retired)
Last serving in the office of PCDRA (WC),
Chandigarh,
R/o H.No.94, Sarai Zeena,
Behind Kotwali,
Meerut.

...Applicant
(By Advocate: Shri V.P.S. Tyagi)

versus

1. Union of India (through Secretary)
Ministry of Defence, Finance, South Block,
New Delhi.
2. The Controller General of Defence Accounts,
West Block 0V, R.K. Puram, New Delhi.
3. The Controller of Defence Accounts (Army),
Belvadier Complex, Meerut Cantt.
4. The Principal Controller of Defence Accounts,
(Western Command)
Sector 9C, Chandigarh.

...Respondents
(By Advocates : Shri R.P. Aggarwal with Shri Ravinder Sharma)

ORDER (ORAL)

SHRI SHANKER RAJU, M (J) :

Applicant impugns the order passed by the appellate authority on 21.11.2002 whereby while modifying the punishment a penalty of reduction of two lower stages in the time scale of pay till the date of retirement, i.e., 30.11.2002 alongwith withholding of increment was imposed.

2. Applicant, who has retired on superannuation on 30.11.2002, while working as Accounts Officer was proceeded against in a major penalty proceedings under Rule 14 of CCS (CCA) Rules, 1965 (hereinafter referred

(2)

to as 'Rules) for not verifying the signature with the specimen signatures of the countersigning officer in the Specimen Signatures Register maintained for the purpose, processed and passed 95 supplementary bills without comparison of the specimen signature pertaining to medical bills. Inquiry officer held charges proved, which led to imposition of penalty vide order dated 4.1.2002, which was modified by the appellate authority by imposing the penalty of reduction to two lower stages in the time scale of pay till 20.11.2002 alongwith withholding of increments vide order dated 21.11.2002. Against the order of the appellate authority, the applicant filed a revision petition dated 9.1.2003, which was rejected vide order dated 4.8.2003, giving rise to the present OA.

3. At the outset, learned counsel of applicant by relying on the decision of the Hyderabad Bench of this Tribunal in OA No.712/1990 in the case of *V.V. Ramaiah Vs. Union of India and others* decided on 21.7.1993 and the same was also followed in OA No.2282/2002 in the case of *Satya Pal Singh Vs. Union of India and Others* decided by the Principal Bench of the Tribunal on 16.4.2004 contended that imposition of penalty of reduction in lower stage at the verge of retirement would adversely affect calculation of average pay for 10 months and in such an event, punishment by way of reduction in pay has to be imposed till 10 months prior to the date of retirement. In this view of the matter, it is contended that punishment imposed upon the applicant cannot be operative within 10 months of superannuation and the same is not valid in law.

4. As regards principles of natural justice is concerned, it is stated that basically the thrust of allegation was non-verification of specimen signature from the register meant for the purpose, which contravened para 66 of Defence Audit Code. In this regard, it is contended that Specimen Signatures Register though form a part of the list of documents has not been

(3)

furnished to the applicant and the inquiry officer while concluding had recorded about the importance of Specimen Signatures Register in the present case and as regard to the non-supply of the aforesaid document observed as under:-

"Taking into account all the above factors, it is evident that the Specimen signatures Register bearing control no. which has also been relied upon in the charge sheet as well as testified by prosecution witnesses is vital to the case. However, despite the request of the charged officer and requisition placed by the Inquiry Officer, the Register could not be produced for verification. It was intimated by CDA (Army), Meerut vide letter no.AN/X-14/PC-695 dated 1.6.2000 (Daily Order Sheet No. 2) that Specimen Signatures Registers with Control nos. 9297 and 928 were not available in Pay-Section, hence could not be produced for inspection.

From the above, it is clear that a fair and reasonable opportunity was not afforded to the Charged Officer to defend himself as an important document viz Specimen Signatures Register was denied to him."

5. In the above conspectus, it is stated that non-furnishing of the document relied upon and demanded, which is relevant, has certainly prejudiced the applicant which is not sustainable and vitiates the orders and inquiry as well in the light of the following decisions of the Apex Court :-

1. *Kashinath Dikshit Vs. Union of India and others*, AIR 1986 SC 2118; and

2. *State of U.P. Vs. Shatrughan Lal and Anr.*, JT 1998 (6) SC 55.

6. On the other hand, learned counsel of the respondents has vehemently opposed the contentions raised by the applicant and contended that once the documents were destroyed and not available, the same cannot be provided to the applicant. As regards, other submission, i.e., legality of punishment, it is stated that punishment imposed upon the applicant is in accordance with rules.

(4)

7. On careful consideration of the rival contentions of the parties, we find that the punishment which operates within 10 months of the date of superannuation insofar as relates to Rule 6 (5) of the Railway Rules, which is analogous to Rule 11 of the Rules *ibid* which provides that any punishment which has an effect of reducing the pay within 10 months, which is the period for calculation of average emoluments for determining the pension of a Govt. employee cannot be sustained. The ratio in the cases of *V.V. Ramaiah* (*supra*) and *Satya Pal Singh* (*supra*) clearly in all fours covers the present case also. Accordingly, the punishment cannot be sustained. In the case of *State of U.P. Vs. Shatrughan Lal and Anr.* (*supra*), the Apex Court has observed as under:-

“4. Now, one of the principles of natural justice is that a person against whom an action is proposed to be taken has to be given an opportunity of hearing. This opportunity has to be an effective opportunity and not a mere pretence. In departmental proceedings where charge-sheet is issued and the documents which are proposed to be utilised against that person are indicated in the charge sheet but copies thereof are not supplied to him in spite of his request, and he is at the same time called upon to submit his reply, it cannot be said that an effective opportunity to defend was provided to him. (See. *Chandrama Tewari v. Union of India* JT 1987 (4) SC 398 *Kashinath Dikshita v. Union of India & Ors.* 1986 (3) SCC 229 = AIR 1986 SC 2118: *State of Uttar Pradesh v. Mohd. Sharif* (1982) 2 SCC 376 = AIR 1982 SC 937).”

8. If one has regard to above, verification of Specimen Signatures Register has not been served upon the applicant despite demand, which has found the basis of guilt and imposition of punishment upon the applicant. Once the inquiry officer has come to the conclusion that non-supply of Specimen Signatures Register is the denial of reasonable opportunity to the applicant to defend his case, recording of finding of guilt on the charge is perverse and not sustainable in law. Applicant thus has been prejudiced in

(5)
the matter of his defence. Accordingly, inquiry is vitiated on that count as well.

9. In the result, OA is partly allowed. Impugned orders are quashed and set aside. Respondents are directed to recalculate the pension of the applicant on average emoluments to be computed on the basis of the pay without any reduction. Applicant shall be entitled to the consequential benefits and the same shall be disbursed to the applicant within a period of six months from the date of receipt of a copy of this order. No costs.

S. Raju
(SHANKER RAJU)

MEMBER (J)

V.K. Majotra
(V.K. MAJOTRA)
VICE CHAIRMAN (A)

24.8.04

/ravi/