

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. NO.2614 of 2003

New Delhi, this the day 22nd day of November 2004

**Hon'ble Shri Shanker Raju, Member (J)
Hon'ble Shri S.A. Singh, Member (A)**

Shri Magal Sain S/o Shri Bathwa Ram,
Working as Upper Division Clerk,
Office of the Executive Engineer,
Construction Division VIV,
Central Public Works Department,
Maidangarhi,
New Delhi.

.....applicant.

(By Advocate : Shri R.K. Shukla)

Versus

Union of India through

1. The Secretary,
Ministry of Urban Affairs/Development,
Nirman Bhawan,
New Delhi
2. The Director General,
Central Public Works Department,
Nirman Bhawan,
New Delhi.
3. The Chief Engineer (NDZ IV),
Central Public Works Department,
R.K. Puram,
New Delhi.
4. The Superintending Engineer,
Delhi Cantral Circle-XI,
A-127, Pushpa Bhawan,
New Delhi.
5. Shri P.K. Mazumdar,
Superintending Engineer (Inquiry),
Inquiry Officer.

.....Respondents.

(By Advocate : Ms.Shail Goel)

ORDER (ORAL)

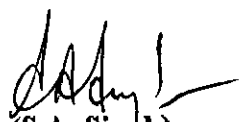
HON'BLE SHRI SHANKER RAJU, MEMBER (J) :

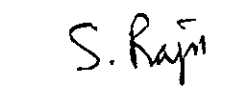
Heard learned counsel.

2. It appears that appeal against major penalty, which was submitted by the applicant on 31.8.2002, was disposed of by the appellate authority on 16.4.2003 wherein in the conclusion it has been observed that the President after examining

the material within the scope of Rule 29 A of the CCS (CCA) Rules, 1965 found no new material and merit in the representation and accordingly, the appeal has been rejected. Import of Rule 27 of the Rules *ibid* provides that the appellate authority ^{has} not only to examine the legality of the procedure but also proportionality of the punishment. This aspect of the matter has not been taken into consideration by the appellate authority while deciding the appeal of the applicant.

3. In this view of the matter, order passed by the appellate authority is mechanical in nature. As such the same is not sustainable in terms of Rule 27 of the Rules *ibid*. Accordingly, OA is partly allowed. Impugned order passed by the appellate authority is quashed and set aside and the matter is remitted back to the appellate authority to pass a fresh order after considering the legality of the procedure and proportionality of punishment awarded to the applicant in accordance with Rule 27 of the Rules *ibid* within a period of three months from the date of receipt of a copy of this order. This should be a speaking and reasoned order. Applicant is at liberty to assail the same in accordance with law, if so advised. No costs.


(S.A. Singh)
Member (A)


(Shanker Raju)
Member (J)

/ravi/