

(2011) 07 DEL CK 0473

In the Delhi High Court

Case No : Writ Petition (Civil) No. 452 of 2007

J.B. Gupta

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 05-07-2011

Acts Referred:

Citation : (2011) 07 DEL CK 0473

Hon'ble Judges : Sudershan Kumar Misra, J;Anil Kumar, J

Bench : Division Bench

Advocate : None, for the Appellant; None, for the Respondent

Final Decision : Dismissed

Judgement

Anil Kumar, J.—The Petitioner has challenged the order dated 3.8.2005 passed by the Central Administrative Tribunal in O.A. No. 1302/2004 titled Shri J.B. Gupta v. Union of India and Ors., whereby the Tribunal has dismissed the O.A. of the Petitioner.

2. Before the Tribunal, the Petitioner had challenged the penalty of compulsory retirement imposed upon the Petitioner by order dated 12.06.2003 contending that it could not be given retrospective effect from 31.08.1999.

3. The Tribunal had repelled the contention of the Petitioner on the ground that in the peculiar facts and circumstances, the plea that he could not be compulsorily retired w.e.f. 31.08.1999 is not tenable. It was held that normally the penalty is not to be imposed with retrospective effect but it is dependent upon the facts and circumstances of the case.

4. In the case of Petitioner, it was noticed that the disciplinary authority, by order dated 17.08.1999 had imposed the penalty of removal from service w.e.f. 31.08.1999. In appeal, which was decided in pursuance to the order of the Tribunal dated 18.05.2001, the appellate authority on 14.02.2002, had modified the order of removal from service and reduced the penalty to compulsory

retirement with cut in the pension and gratuity. The Tribunal held that the penalty of compulsory retirement, which was imposed in modification of the order of the disciplinary authority, thus, came into effect on 31.08.1999. In the circumstances, it was held that by no stretch of reasoning, it could be said that the penalty imposed by the appellate authority while disposing of the appeal is with retrospective effect and contention of the Petitioner was not accepted.

5. The principal contention of the Petitioner seems to be the date of the compulsory retirement which has been repelled in the circumstances as detailed hereinabove. The Tribunal has also dealt with other pleas and contentions raised by the Petitioner and has also gone into every precedent cited on behalf of the parties.

6. Today, no one is present on behalf of the Petitioner.

7. A perusal of the record reveals that no one had appeared on behalf of the Petitioner even on 25.08.2009, however, no adverse order was passed on that date and the matter was adjourned for 24.11.2009.

8. The matter was taken up on 25.11.2009. However, no one had appeared even on that date and in the interest of justice, no adverse order was passed and the matter was allowed to remain on Board in the category of "Regular Matters".

9. The matter was again taken up on 4.7.2011. Again, no one had appeared on behalf of the Petitioner, however, no adverse order was passed against the Petitioner.

10. In the circumstances, we are constrained to dismiss the writ petition in default of appearance of Petitioner and his counsel.

11. The writ petition is, therefore, dismissed in default.