

(1990) 12 KAR CK 0020
In the Karnataka High Court
Case No : W.P. No. 9583/1983

T. Siddaganga Shetty

APPELLANT

Vs

Karnataka Electricity Board and Another

RESPONDENT

Date of Decision : 12-12-1990

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1990) 4 KarLJ 531

Hon'ble Judges : H. G. Balakrishna, J

Judgement

1. A show-cause notice under Annexure-C, dated 28-5-1982 was served on the petitioner, to answer the allegation that while functioning as Assistant Accounts Officer, in the Office of the Accounts Officer (I/A) during the period 7-7-1979 and 30-6-1980, the petitioner preferred a claim for payment of Rs. 3,564/- for journeys on leave travel concession between Bangalore and Srinagar, the journey stated to have been performed by Taxi and producing in support of his claim a voucher for payment of taxi hire, which was found to be spurious, thereby constituting serious misconduct on the part of the petitioner.

2. Thereafter a Departmental Enquiry was held against the petitioner and on 4-9-1981 the Disciplinary Authority passed an order under Annexure-A, on the basis of the report and findings submitted by the Enquiry Officer. The Disciplinary Authority found the petitioner guilty of the charges levelled against him and passed the following order:

"(i) That Sri T. Siddaganga Shetty should be reverted for a period of one year from 4-9-1981 to 3-9-1982 to the post of Senior Assistant in the scale of Rs. 630-30-780-50-1030-60-1330-75-1405.

(ii) That during the period of reduction in the post of Senior Assistant he shall be eligible to draw a pay of Rs. 930/- per month subject to conditions which are contained in the said order of the Disciplinary Authority."

3. Subsequently the petitioner preferred an appeal against the order of the

Disciplinary Authority and the appeal came to be dismissed on merits. The Appellate Authority by its order dated 22-1-1983 vide Annexure-E, observed that on a careful analysis of the evidence produced, the Board had come to the conclusion that the taxi hire receipt was produced from a firm which did not exist and the car in which the journey was performed did not have an All India Permit and that the charge against the petitioner has been proved.

4. It is seen from the record that earlier to the passing of this order by the Appellate Authority, a show-cause notice was issued by the Appellate Authority, calling upon the petitioner to show cause why the punishment should not be enhanced, to which the petitioner submitted his objections and explanation. It is only after due consideration of the objections and the explanation offered by the petitioner that the Appellate Authority proceeded to pass an order under Annexure-E, dated 22-1-1983. Having due regard to the evidence on record, the Appellate Authority after consideration of the explanation offered by the petitioner objecting to the enhancement of punishment and also to the punishment itself, proceeded to merely confirm the punishment imposed by the Disciplinary Authority. The petitioner was not satisfied with the order made by the Appellate Authority and therefore, has approached this Court.

5. It is seen from the impugned order of the Appellate Authority that though the Board confirmed the punishment awarded by the Disciplinary Authority, it made a modification of the order of the Disciplinary Authority, by observing in the order that the confirmation of the punishment is subject to the modification that the period of reduction of the petitioner as Senior Assistant should on his restoration as Assistant Accounts Officer, have the effect of postponing his increment in that post. It is made clear in the last sentence of the order passed by the Appellate Authority that what was meant was that there would be reduction of future increments which should be having cumulative effect.

6. It is a well accepted principle that the Court would decline to interfere with the order of a Disciplinary Authority on disputed questions of fact, on the basis of re-assessment of evidence or by looking into the impugned order as if the Court was acting as an Appellate Authority, in the exercise of jurisdiction under Article 226 of the Constitution. The material placed on record, adequacy of the material for establishing the guilt of the petitioner, holding of a proper enquiry, reasonable opportunity of hearing, participation of the petitioner in the enquiry, recording of statements, due application of mind and passing of a reasoned order are generally accepted as hall marks of an order answering the test of reasonableness and fairness. I am unable to discover any flaw in the enquiry held against the petitioner in terms of the requirement aforementioned and I am also convinced that the punishment awarded to the petitioner is not excessive, considering the gravity of the offense committed by the petitioner. In short, there is no violation of the principle of proportionality in the matter of award of punishment to the petitioner.

In these circumstances, I do not find any justification for interference with the

impugned orders. Hence the writ petition fails and is therefore, dismissed.