

(2019) 01 RAJ CK 0043
In the Rajasthan High Court
Case No : Civil Writ No. 4416 Of 2018

Union Of India And Ors

APPELLANT

Vs

N.P. Arora And Ors

RESPONDENT

Date of Decision : 04-01-2019

Acts Referred:

Citation : (2019) 01 RAJ CK 0043

Hon'ble Judges : Pradeep Nandrajog, CJ; Pushpendra Singh Bhati, J

Bench : Division Bench

Advocate : Sunil Bhandari, J.K. Kaushik

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the parties.
2. On 27.10.2010 a charge memorandum was issued to the respondent listing the article of charge, the statement of imputation as also a list of documents on which the charge was proposed to be proved. On 10th December, 2010 a penalty order was issued reducing pay of the respondent by one stage in the time scale of pay for a period of three years with direction that the respondent will not earn increments of pay during the period of reduction and that on the expiry of the period of reduction the same will not have the effect of postponing his future increments of pay.
3. The respondent challenged the penalty inflicted and apart from the merits raised the plea that the penalty was a major penalty and could not have been inflicted without an enquiry being held.
4. Vide order dated 19.9.2013 the Central Administrative Tribunal opined that the penalty imposed was a major penalty and on said ground alone set aside the penalty observing that the Department would be entitled to proceed in accordance with law.
5. The said order dated 19.9.2013 passed by the Tribunal was set aside by a

Division bench of this Court on 3.12.2014 observing that the penalty was a minor penalty.

6. In the concluding part the Division Bench after declaring the order passed by the Tribunal to be illegal made it clear that the acceptance of the writ petition filed by the Union of India would in no manner adversely affect the right of the original applicant if he was having any grievance concerning the penalty order.

7. The respondent filed a review application before the Tribunal drawing attention to the order passed by this Court and prayed to the Tribunal that other grounds urged in the original application be decided.

8. Vide impugned order dated 13.4.2017 the Tribunal recalled its earlier order and held that the original application requires to be decided on the other points urged by the respondent.

9. Challenging the order dated 13.4.2017 the case of the writ petitioner is that once the order dated 19.9.2013 passed by the Tribunal was set aside by the Division Bench of this Court the principle of merger applies.

10. Suffice it to state that the technicalities of law are confronting the respondent because after the Division Bench decided the earlier writ petition filed by the Union of India respondent filed application for review before the Tribunal. Needless to state what the respondent intended to seek from the Tribunal was that the earlier order which was passed by the Tribunal on a technical ground being set aside by the Division Bench of this Court requires the Tribunal to decide the other points which were urged by the original applicant.

11. Needless to state, as noted above, in its order dated 3.12.2014 the Division Bench has observed that the original applicant could urge remainder grievances concerning the penalty order.

12. In fact, the Division Bench ought to have observed that in view of the fact that other points were urged before the Tribunal which were not decided, the Tribunal should decide the same. Rather than saying that, the Division Bench left it for the original applicant to urge grievances concerning the penalty order before the Central Administrative Tribunal.

13. In view of the facts noted above we find no infirmity in the order of the Tribunal taking a view that it would decide the other points urged by the respondent in the original application.

14. The writ petition is dismissed.