

(2013) 09 DEL CK 0226

In the Delhi High Court

Case No : Writ Petition (C) 5611 of 2013

Vijay Shankar Shukla

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 06-09-2013

Acts Referred:

Citation : (2013) 09 DEL CK 0226

Hon'ble Judges : S. Ravindra Bhat, J;Najmi Waziri, J

Bench : Division Bench

Advocate : A.K. Bhakt, for the Appellant; Sweety Manchanda, CGSC, for the Respondent

Final Decision : Dismissed

Judgement

S. Ravindra Bhat, J.—The petitioner was unsuccessful in his challenge (before the Central Administrative Tribunal-CAT] to the punishment order made pursuant to a remit by this Court in W.P. (C) 4944/2007 on 04.05.2009. The brief facts are that the petitioner was charged with misconduct of attempting to pilfer 351 filled milk polypacks of one litre each and 12 empty crates, refusing to sign the Recovery Memo dated 13.08.1993 and allegedly abusing and manhandling of security staff on duty.

2. A common enquiry was held against the petitioner and others. The charge of pilferage and not signing the Recovery Memo was held proved whereas the other charges were proved against the co-delinquent employees. The disciplinary authority disagreed with the findings, exonerating the petitioner with regard to the charges of manhandling and abusing security staff and on 31.05.1997 imposed a penalty of compulsory retirement. The Joint Secretary/appellate authority, on 12.11.1997 rejected the appeal. The petitioner succeeded before the Central Administrative Tribunal (CAT), i.e. O.A. 2857/1997. The CAT directed the Disciplinary Authority to continue with proceeding from the stage of issuance of disagreement note. Consequently, memo was issued by the Deputy General Manager (DGM), conveying reasons for disagreement and opportunity was

afforded to the petitioner furnish his explanation. The disciplinary authority again imposed penalty of compulsory retirement on 23.06.2000. This time the appeal was to the higher authority, to an extent successful in that the concerned authority, on 15.02.2001 reduced the penalty and substituted it with reduction of pay to the minimum scale of Rs. 3050/- for a period of four years.

3. The petitioner's earlier attempt at redressal in respect of that penalty was partially successful in that this Court, by order dated 04.05.2009 permitted the disciplinary authority to pass appropriate order keeping in view the circumstance that the petitioner was to retire on 31.12.2003 during the subsistence of the penalty, i.e. imposition of reduction in the pay scale for four years. This time the penalty was again modified; instead of the down gradation to the scale of Rs. 3050/- for four years, it was confined to three years, and was to expire before the petitioner's date of retirement, i.e. 31.12.2003.

4. It is argued that the Tribunal fell into error in rejecting the submissions, i.e. that the disciplinary authority was not competent to issue the order since the DGM was not the appointing authority and that the impugned order was in fact not in compliance with the previous order of the Court and the Tribunal.

5. This Court has carefully considered the submissions. The Tribunal has noticed that the DGM, in terms of the Rules was competent to impose a penalty on all Group-C employees. Concededly, the petitioner was one such Group-C employee. In these circumstances, this Court finds the argument about lack of competence of the disciplinary authority to impose punishment to be unsubstantial. As far as other aspects are concerned, this Court notices that the submissions cannot be taken into account since the order of this Court earlier remitting the matter was on the limited aspect of reviewing the penalty. After the remand, the authorities have consciously ensured that the penalty did not subsist as on the date and the petitioner's retirement, i.e. 31.12.2003. In view of the above discussion, this Court is of the opinion that there is no merit in the petition. It is accordingly dismissed. In the circumstances, there shall be no order as to costs.