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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2763 OF 2015

Mr. P.S. Patkar ... Petitioner
Vs.
Central Administrative Tribunal and ors. ... Respondents

Mr. P.S. Patkar, Petitioner-in-person.
Ms Neeta V. Masurkar a/w. Mr. Dashrath Dube for Respondents.

CORAM : V. M. KANADE, AND
M. S. SONAK, JJ.

Date of Reserving the Judgment : 05 JULY 2016.
Date of Pronouncing the Judgment : 12 JULY 2016.

JUDGMENT (Per M.S. Sonak, J.)

1] The petitioner challenges the order dated 30 January 2014 made by the Central Administrative Tribunal (CAT), dismissing the Original Application No. 621 of 2012 instituted by him questioning imposition of minor penalty upon him.

2] Mr. Patkar, the petitioner who appears in person, has made oral submissions as also submitted a written synopsis, in support of the contentions raised by him in this petition. Mr. Patkar has

submitted that the Enquiry Officer had, in fact, exonerated the petitioner. The report of the Enquiry Officer was in fact accepted by the Disciplinary Authority. However, on basis of pressure exerted by the Superior Officer, the Disciplinary Authority furnished the dissent note to the petitioner, almost nine months after the copy of the enquiry report was made available to the petitioner. Mr. Patkar submits that this constitutes blatant disregard to the procedure prescribed, inasmuch as the dissent note is required to be furnished together with enquiry report to the Charged Officer. Mr. Patkar submitted that there is no ambiguity in Rule 15(2) of the C.C.S. (CCA) Rules and therefore, there was no justification on the part of the respondents to deviate from the prescribed procedure. Relying upon decision of the Hon'ble Apex Court in case of ***Babu Verghese and ors. Vs. Bar Council of Kerala and others – (1993) 3 SCC 422***, Mr. Patkar submitted that it is the basic principle of law long settled is that, if the manner of doing a particular act is prescribed under any statute, the act must be done in that manner or not at all. Mr. Patkar, in his written submission, has also referred to the decisions of the Apex Court in cases of ***Union of India Vs/. Ashokkumar Aggarwal in Civil Application No. 9454 of 2013 in C.A. No. 9454 of 2013*** and ***Punjab National Bank and others Vs. Kunj Behari Misra – (1998) 7 SCC 84***, Mr. Patkar also contended that the order by which penalty was imposed upon the petitioner by the Disciplinary Authority contains no reasons and therefore, there is violation of principle of natural justice.

3] On the other hand, Ms Neeta V. Masurkar, learned counsel for the respondents, submitted that the charges leveled against the petitioner were of serious nature. The petitioner, in his reply to the authorities, had, in fact, admitted that he had signed certain documents/invoices without indicating the date under his signatures or using the official seal. She further submitted that certain vital documents, which were to remain in the custody of the petitioner were found to be missing. As a result, there was not merely breach of procedures in the matter of exports but such breach facilitated or would have facilitated exports, in the manner which was not above board. Ms Masurkar submitted that there was no breach in compliance with the procedures prescribed. The dissent note was duly furnished to the petitioner, the petitioner's explanation was also duly taken into consideration, full opportunity of hearing was afforded to the petitioner and there is really no cause to complain about any failure of natural justice. Ms Masurkar submitted that the decisions relied upon by the petitioner are not at all applicable to the facts and circumstances of the present case. Further, she submitted that only a minor penalty has imposed upon the petitioner and the CAT, in a reasoned decision, has upheld the penalty so imposed. For all these reasons, she submitted that this petition may be dismissed.

4] We have considered the submissions made by either parties. We have also perused the record and the impugned order made

by the CAT. In our judgment, there is really no case made out to interfere with the impugned order made by the CAT.

5] We are satisfied that there is no breach of procedure, in the matter of imposition of minor penalty. There is no material on record to accept the contentions of the petitioner that the Disciplinary Authority has acted under the pressure or under dictation. The dissent note prepared by the Disciplinary authority was duly furnished to the petitioner. The circumstance that the same was furnished to the petitioner after nine months, is not, in the facts and circumstances of the present case, any serious breach of procedure, so as to vitiate the minor penalty imposed upon the petitioner. In any case, the petitioner cannot complain of any prejudice, inasmuch as no action was taken against the petitioner until after the dissent note was furnished to him and he was afforded opportunity of making his submissions in that regard. The principle referred to in a case of **Babu Verghese (supra)** is not attracted to the facts and circumstances of the present case. The prescribed procedure has been substantially complied with. Before imposition of minor penalty, there was compliance with principles of natural justice and fair play.

6] The decision in case of **Ashokkumar Aggarwal (supra)** is also not applicable to the facts and circumstances of the present case. In the said decision, it is laid down that the executive instructions

can be issued only to supplement the statutory rule, but not to supplant them. Such an issue does not arise in the present petition.

7] The principle and the procedure referred to in the case of ***Kunja Behari Misra (supra)***, has been substantially complied with. In this case, tentative points of disagreement were duly furnished by the Disciplinary Authority to the petitioner and the petitioner was granted adequate opportunity to put forth his case. The minor penalty has been imposed, only upon taking into consideration the petitioner's defence.

8] The CAT, has appreciated the material on record in its proper perspective, particularly taking into consideration the limited scope of interference with disciplinary proceedings. In this case, the petitioner, has quite rightly not even raised the issue of proportionality of the penalty imposed.

9] For all these reasons, we see no merit in this petition. This petition is therefore, dismissed. There shall, however, be no order as to costs.

[M. S. SONAK, J.]

[V. M. KANADE, J.]