

14.05.2026
Item No.39
Ct. No. 1
RP

WPCT 330 of 2024

**Union of India & Ors.
VS.
Dilip Kumar Gupta**

Mr. Soumak Bera
Mr. Arijit Majumdar
Mr. Amritansu Sengupta
Ms. Shreyashi Sarkar

.... For Petitioners

Dictated by Sujoy Paul, CJ.:-

1. Petitioners are represented through their respective learned counsel.
2. None appears for the respondent.
3. Heard on admission.
4. This petition filed under Article 226/227 of the Constitution of India impugns the order of the Central Administrative Tribunal (Tribunal) dated 2.2.2024 passed in OA No.350/866/2017 whereby the OA filed by the respondent/applicant against the minor punishment of stoppage of one increment without cumulative effect was entertained and disposed of by observing that the respondents may grant the increment due to the applicant on 1.7.2017 without having the effect on his pension upon his retirement.

5. Draped in brevity, the relevant facts for adjudication of this matter are that the respondent/applicant was a member of a Tender Evaluation Committee (TEC). As per the stand of the employer, the TEC committed errors and because of that the Chairman, Secretary and the applicant were subjected to disciplinary proceedings. Since the Chairman and the Secretary of the TEC retired on attaining the age of superannuation, no action was taken against them considering the misconduct as not "grave". The present respondent was inflicted with a minor penalty of withholding of increment by order dated 27.10.2016 without cumulative effect. His next increment was due on 1.7.2017. The respondent retired on 30.6.2018.
6. The stand of the respondent/ applicant before the Tribunal was that although said minor punishment on the face of it appears to be trivial/minor, it has serious consequence on the pension of the respondent because during the currency of punishment of stoppage of one increment, he had retired and, therefore, the retiral dues will be fixed accordingly and the said

punishment will have a detrimental effect on his pension.

7. The Tribunal after considering the admitted fact that the respondent was only a member of the TEC and no action has been taken against the Chairman and the Secretary of TEC, coupled with the fact that the said minor punishment has a serious consequence on pension, opined that impugned order shall not have an adverse effect on the pension and, accordingly, increment due to the application on 1.7.2017 may be taken into account.
8. Learned counsel for the department did not dispute that the applicant was only a member of TEC and for similar misconduct, no action has been taken against the superior officers, namely, the Chairman and the Secretary of TEC. However, by placing reliance on the judgment passed in the case of **B.C. Chaturvedi vs. Union of India & Ors.** reported in **(1995) 6 SCC 749** it is urged that if the Tribunal comes to the conclusion that punishment is harsh/ excessive or unwarranted, proper course was to remit the case back to the

disciplinary authority for substituting it by adequate punishment. It was not open to the Tribunal to substitute or modify the punishment itself.

9. No other point is pressed by the learned counsel for the department.
10. Admittedly, the respondent was a member of TEC and if any illegal decision has been arrived at by the TEC for that no adverse action has been taken against the superior officers, namely, the Chairman and the Secretary. The respondent, an inferior employee, was picked up and chosen for a step-motherly treatment by inflicting minor punishment. Yet Tribunal did not interfere with the punishment order and only ensured that the said minor punishment of stoppage of one increment does not affect his pension/retiral dues in any adverse manner. In our opinion, the Tribunal has taken up a plausible view. In all fairness, the Department should not have filed this petition when they allowed the superior officers, namely, the Chairman and the Secretary to go unpunished and took up an inferior employee and imposed minor punishment on him. Hence, present one is

an avoidable piece of litigation. The Tribunal in fact ensured that such minor punishment should not have any adverse consequence on his pension/retiral dues. The Tribunal, in our opinion, passed the order to secure the ends of justice.

11. Apart from this, the Supreme Court in **B.C. Chaturvedi** (supra) observed as follows:

*“18. A review of the above legal position would establish that the disciplinary authority, finding authorities have exclusive power to consider the evidence with a view to maintain discipline. They are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct. The High Court/Tribunal, while exercising the power of judicial review, cannot **normally** substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, would appropriately mould the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, impose appropriate punishment with cogent reasons in support thereof.”*

(Emphasis Supplied)

This view is followed in **(1997) 7 SCC 463 (Union of India v. G. Ganayutham)**.

12. In view of above Judgments of Supreme Court, in our opinion, the present one falls within the ambit of such case where interference/modification in the interest of

justice was permissible to shorten the litigation and to meet the ends of justice.

13. Thus, admission is **declined** and petition is **dismissed**.

(SUJOY PAUL, CJ.)

(PARTHA SARATHI SEN, J.)