

No. 11012/1/90-Estt.(A)
Government of India

Ministry of Personnel Public Grievances and Pensions
Department of Personnel and Training

...
New Delhi the 8 February, 1990

OFFICE MEMORANDUM

Subject: - Jurisdiction of the CAT in the matter of disciplinary action against Government servants - Supreme Court judgement in case of Parma Nanda Vs. State of Haryana and others.

The undersigned is directed to say that a number of cases have come to the notice of this Department where the CAT, though agreeing with the decision of the disciplinary authority to hold the charges against a delinquent Government servant as proved, have modified the quantum of penalty on their own discretion. The question whether the Tribunal could interfere with the penalty awarded by the competent authority on the ground that it is excessive or disproportionate to the misconduct proved, was examined by the Supreme Court in the case of Shri Parma Nanda Vs. State of Haryana and others (1989 (2) Supreme Court Cases 177) and the Court held that the Tribunal could exercise only such powers which the civil courts or the High Courts could have exercised by way of judicial review. The Supreme Court in that case further observed as under:

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The jurisdiction of the Tribunal to interfere with the disciplinary matters or punishment cannot be equated with an appellate jurisdiction. The Tribunal cannot interfere with the findings of the Inquiry Officer or competent authority where they are not arbitrary or utterly perverse. The power to impose penalty on a delinquent officer is conferred on the competent authority either by an Act of legislature or rules made under the proviso to Art. 309 of the Constitution. If there has been an enquiry consistent with the rules and in accordance with principles of natural justice what punishment would meet the ends of justice is a matter exclusively within the jurisdiction of the competent authority. If the penalty can lawfully be imposed and is imposed on the proved misconduct, the Tribunal has no power to substitute its own discretion for that of the authority. The adequacy of penalty unless it is malafide is certainly not a matter for the Tribunal to concern itself with. The Tribunal also cannot interfere with the penalty if the conclusion of the Inquiry Officer or the competent authority is based on evidence even if some of it is found to be irrelevant or extraneous to the matter.

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We may, however, carve out one exception to this proposal. There may be cases where the penalty is imposed under Clause (a) of the second proviso to Art. 311(2) of the Constitution. Where the person without inquiry is dismissed, removed or

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reduced in rank solely on the basis of conviction by a criminal court, the Tribunal may examine the adequacy of the penalty imposed in the light of the conviction and sentence inflicted on the person. If the penalty impugned is apparently unreasonable or uncalled for, having regard to the nature of the criminal charge, the Tribunal may step in to render substantial justice. The Tribunal may remit the matter to the competent authority for reconsideration or by itself substitute one of the penalties provided under Clause (a)."

2 Ministry of Agriculture etc. are requested to bring the above ruling of the Supreme Court to the notice of all concerned authorities so that the same is appropriately referred to in all those cases where the question of quantum of penalty comes up before the CAT or Supreme Court by way of SLP or otherwise.

(K. Sarkar)

Deputy Secretary to the Government of India

To

All Ministries/Departments to the Government of India

No. 11012/1/90-Estt(A)

New Delhi the 28 February, 1990

1. Comptroller and Auditor General of India, New Delhi
2. UPSC, New Delhi
3. CVC, New Delhi
4. Commissioner for Linguistic Minorities, Allahabad.
5. All U.T. Administrations
6. All Zonal Councils
7. Lok Sabha/Rajya Sabha Secretariat
8. CAT, Principal Bench, Faridkot House, New Delhi
9. All Attached and Subordinate offices of the MHA and Ministry of Personnel, P.G. & Pensions.
10. All Sections of the MHA and the Ministry of Personnel, P.G. & Pensions.

(K. Sarkar)

Deputy Secretary to the Govt. of India