

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/21/762/2014

HYDERABAD, this the 22nd DAY OF JANUARY 2020

Hon'ble Mr. ASHISH KALIA, MEMBER (J)

Hon'ble Mr. B.V. SUDHAKAR, MEMBER (A)



K V RAMANA REDDY,
S/o Permal Reddy,
Aged about 52 years,
Occupation: Fitter HS-II, T.No.458-I/LMS,
O/o Ordnance Factory Board,
Maintenance of Light Machine Shop (MSL),
Yeddumailaram, Medak District,
R/o 16-2-227/179, Sardar Patel Road,
Kukatpally, Hyderabad – 85.

APPLICANT

(By advocate: Dr. A.Raghu Kumar)

Vs.

Union of India represented by

1. The Additional Director General,
Ordnance Factory Board,
Armoured Vehicles Head Quarters,
M/o Defence, Avadi, Chennai,
Tamilnadu 600054.
2. The General Manager, Ordnance Factory,
Yeddumailaram, Medak Dist. 502205.

Respondents

(By advocate: Mr. K Rajitha, Sr.CGSC)

ORAL ORDER

PER HON'BLE Mr. ASHISH KALIA, MEMBER (J)

Applicant joined Respondents" organization as Fitter (General). Later, he was promoted as Highly Skilled-I (HSK-I) in the year 1990 and later he was promoted as HSK-II in the year 1993. He was involved in a criminal case and was arrested on 22.07.2004 at about 11.00 AM. He was kept under suspension from 22.07.2004 to 27.12.2007. Thereafter he has been reinstated. He was issued a charge memo and an inquiry officer was appointed. The inquiry officer has submitted his report on 04.05.2012 and the finding of the inquiry officer is in favour of the applicant. He has submitted as under:



“In view of the above documentary evidence and statements the Article of charge No.1 i.e., Shri K.V.Ramana Reddy's involvement in the case would be based on the outcome of the judicial inquiry before honourable court. Both P.O and G.S have confirmed in their brief that the trial is going on case registered against Shri k.V.Ramana Reddy. Moreover, the individual's suspension had been revoked vide order No.15/1004/VLC/2004 DT. 27.12.2007.

The article of charge No.2 i.e. the information of arrest and detention could not be established. The article of charge No.3 i.e. vacating govt. quarter without obtaining permission could not be established.

Therefore, till the final outcome of the Hon'ble court judgment Shri K.V.Ramana Reddy's integrity and devotion as per Article of charge No.4 cannot be ascertained”.

2. Disciplinary authority, after considering the inquiry report, has **passed** the following order:

“8. Now, therefore, the undersigned in exercise of the powers conferred under sub rule (iv) of Rule 11 and 15 of the CCS (CCA) Rules, 1965, hereby imposes the penalty of with holding of one increment when next due for a period of One year with cumulative effect on the said Shri K.V.Ramana Reddy, Fitter, T.No.458-1/OFMK.”

3. Applicant has filed an appeal there to which has also been rejected by the appellate authority vide order dated 21.02.2014. Feeling aggrieved by this, he has approached this Tribunal for redressal seeking following relief(s):



“To call for records pertaining to the Order of the 2nd respondent Memo.No.15/1004/VLC/2011/02 DATED 07.11.2012 and the order of the 1st respondent Memo.No.668/APPEAL/AVHQ/OFMK(KVRR) dated 21.02.2014 and quash and set aside the same as illegal, arbitrary and without any evidence and violative of Rules on the subject matter and Article 311 of the Constitution of India; and consequently declare that the applicant is entitled for the attendant benefits such as consideration for next promotion on par with his juniors in accordance with the rules and the law on the subject matter with all consequential benefits in the interest of justice.”

4. Notices were issued to the respondents and they have filed reply through the standing counsel and submitted therein that in the inquiry, due opportunity was given to the applicant and the

trial was done in a fair manner and he has been awarded the minimum punishment under Rule 14 of CCS (CCA) Rules.

5. After hearing both sides, following issues emerge:

- (i) Whether the applicant is entitled to be reinstated back in service culminating the criminal case whereby he was acquitted honourably.
- (ii) The second issue raised by the applicant herein is that the disciplinary authority, while disagreeing with the inquiry report, has not given opportunity to defend his case.



6. Answer to the first issue raised by the applicant is affirmative. On culminating the criminal trial, if any accused is acquitted, he is entitled to put back in service with full back wages etc.

7. As regards the second issue, the applicant has been awarded the penalty of forfeiture of one increment with cumulative effect. Not giving an opportunity to present his case, is contrary to the law laid down in ***B.C.Chaturvedi vs. Union of India (1995) 6 SCC 749***. The Hon'ble Apex Court has held that "Court or Tribunal may

interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of enquiry.” Hence, we are convinced and decide the issue in favour of the applicant.

8. Hon’ble Supreme Court in ***Yoginath D Bagde Vs. State of Maharashtra and another*** (Date of judgment 16.09.1999) has held that the appellate authority shall give tentative reasons for disagreeing with the punishment awarded by the disciplinary authority and give the delinquent an opportunity to represent his case.



8. The appellate authority, while enhancing the punishment, disagreeing with the punishment awarded by the disciplinary authority without giving disagreement Note and opportunity by giving a show cause notice to the applicant for enhancing the punishment.

8. We hereby set aside the appellate order dated 21.02.2014 and the disciplinary authority order dated 07.11.2012. We remand back this case to the disciplinary authority to give reasons for

disagreeing with the inquiry report. Applicant shall be given due opportunity including personal hearing.

9. With these observations, OA is partly allowed.

10. There shall be no order as to costs.

(B V SUDHAKAR)
MEMBER (A)

(ASHISH KALIA)
MEMBER (J)

vsn

