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Central Administrative Tribunal
Principal Bench: New Delhi

O.A.No. 1805/2000

New Delhi this the 25th day of October, 2002.

Hon'ble Shri Govindan S. Tampli, Member (A)
Hon'ble Shri Shankar Raju, Member (J)

Jitender Kumar,
S/o Late Shri Bansi Dher,
R/o Bamba Market Behind Guru Dura,
Village, Dedha, Muradnagar,
Distt. Ghaziabad.

Applicant

(By Advocate: Shri Yogesh Sharma)

Versus

1. Union of India through the Secretarey,
Ministry of Defence, South Block,
New Delhi.

2. The Chairman Ordnance Factory Board,
10-A, Shaheed Khudiram, Bose Road,
Kolcutta.

3. The General Manager,
Ordnance Factory,
Muradnagar, Distt. Ghaziabad.

Respondents

(By Advocate: Shri S. Mohd. Arif)

ORDER (Oral)

Hon'ble Shri Shankar Raju, Member (J)

Through this OA applicant assails punishment order dated 2.5.2001 as well as appellate order dated 13.12.2000, maintaining the punishment of reduction of pay by one stage for a period of one year with cumulative effect.

2. Applicant, who was working as a Supervisor in Machinery Maintenance Department, was served upon with a major penalty chargesheet, alleging negligence of duties in as much as being incharge of Paddy Straw Godown, he had given Paddy Straw to Feeding Group for supplying to HSF section for use without inspection. Due to fungus in wet paddy straw supplied to HSF Section it had affected HSF production adversely.

3. During the course of the enquiry applicant through his applications dated 23.12.1999 and 3.4.2000 has sought for supply of report of the Board of Enquiry, i.e., preliminary enquiry as well as the statements recorded therein, which have been denied to him. Through the enquiry report applicant has been held guilty of the charge and on representation the disciplinary authority by an order dated 13.12.2000 imposed upon him a major penalty of reduction of pay by one stage for one year with cumulative effect, including the effect of postponing of his future increments. On preferring the appeal the same was rejected, maintaining the punishment, giving rise to the present OA.

4. Though the applicant has taken several contentions to assail the impugned order, but at the outset, he states that the chargesheet is vague and does not show any rule or instructions violated making his conduct as misconduct. Moreover, it is stated that as per the instructions it is not the duty of the Incharge to inspect the Paddy straw before releasing it. Sh. Yogesh Sharma, learned counsel states that on receipt of the copy of the chargesheet he has made applications for supply of the report of the Board of enquiry and statements recorded therein which have not been acceded to and by drawing our attention to the reply of respondents in paragraph 5 (c) it is contended that the same has been denied as being irrelevant. Learned counsel placed reliance on the decision of the Apex Court in State of U.P. v. Shatrughan Lal, JT 1998 (6) SC 55 to contend that denial of PE report and statements vitiates the enquiry. He further placed reliance on the decision of the coordinate Bench in Vijay Pal v. Union of India & Others, 2001 (2) ATJ 33 (CAT).

5. On the other hand, respondents' counsel Sh. S.M. Arif denied the contentions and stated that the penalty has been imposed upon the applicant after giving him reasonable opportunity to defend and although a preliminary investigation was conducted by Section Officer, who submitted his report, applicant was supplied all listed documents in the chargesheet and moreover the PE report was not relevant. As such the same has been denied which does not violate the principles of natural justice. It is stated that the reasoned orders have been passed by the disciplinary authority as well as appellate authority and the misconduct of the applicant has been proved from the evidence brought on record.

6. We have carefully considered the rival contentions of the parties and perused the material on record. The following observations have been made by the Apex Court in Shatrughan Lal's case (supra):

"1. The respondent who was a Lekhpal in the service of the State Government, was dismissed from service after a regular departmental inquiry. The order of dismissal was challenged before the U.P. Public Services Tribunal which, by its judgement dated 13.3.1981, allowed the claim petition with the findings that the departmental proceedings conducted against the respondent as also the order dated 28.2.77 by which he was removed from service were illegal and void. The State

of U.P. then filed a writ petition in the High Court which was dismissed summarily on 4.2.82.

2. We have heard learned counsel for the parties. The Tribunal has found as a fact that copies of the documents which were proposed in the chargesheet to be produced in the departmental proceedings as proof in support of articles of charges were not supplied to the respondent. This finding was based on the own admission of the appellant in the written statement that the copies of the documents mentioned in the charge-sheet were not supplied to the respondent which could be inspected by him at any time. The Tribunal further found that the copies of the statement recorded during the preliminary inquiry on the basis of which the charges were subsequently framed against the respondent were also not supplied to him. It was, on these two grounds that it was held by the Tribunal that the inquiry proceedings were bad in law."

7. It is a cardinal principle of law as evolved from various pronouncements of the Apex Court, including Kashinath Dixit v. Union of India, ATR 1982 (2) SC 186, Committee of Management, Kishan Degree College v. S.S. Pandey, JT 1995 (1) SC 270 as well as constitutional Bench decision of the Apex Court in Iriloki Nath v. Union of India, 1967 SLR 759, that not only the documents which are relied upon by the prosecution but also the documents which

are required for effective defence of the delinquent official are to be furnished to him in the event a specific request has been made to that effect.

8. In the light of the aforesaid decisions we find that immediately on receipt of the copy of the memorandum applicant has made a specific request for supply of the copy of the Board of Enquiry as well as statements recorded therein. The aforesaid request was rejected by the enquiry officer and the stand taken is that the documents are irrelevant.

9. In our considered view, applicant has been greatly prejudiced in the matter of non-supply of the PE report and statements recorded therein. Denial of the documents required for the defence of the applicant do constitute a serious violation of principles of natural justice which itself is sufficient to vitiate the enquiry as well as the consequent orders.

10. In the result, OA is allowed. Impugned orders are quashed and set aside. Applicant shall be entitled to all the consequential benefits. However, this will not preclude the respondents, if so advised, to take up the disciplinary proceedings from the stage of supplying to applicant the relevant documents. No costs.

S. Raju

(Shanker Raju)
Member (J)

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(Govindan S. Tampi)
Member (A)