

(1)

Central Administrative Tribunal
Principal Bench: New Delhi

O.A. No. 2313/2001

New Delhi this the 5th day of September, 2001

Hon'ble Mr. Justice Ashok Agarwal, Chairman
Hon'ble Mr. V.K. Majotra, Member (A)

Shri Subhash Chand Sethi,
S/o Late Shri P.S. Sethi,
R/o A-11, Sanchar Lok Apartments,
Patpar Ganj, Delhi-110092.

-Applicant

(By Advocate: Shri Gurdeep Singh)

Versus

1. Union of India,
Through Secretary Govt. of India,
Ministry of Defence,
New Delhi.
2. General Manager,
Govt. of India,
Ministry of Defence,
Ordnance Factory Board,
Ordnance Factory,
Muradnagar-201206.
3. Addl. DG of/Member
Appellate Authority,
Government of India,
Ministry of Defence,
Ordnance Factory Board,
10A, Shaheed K.B. Road,
Calcutta-700001.

-Respondents

ORDER (Oral)

By Mr. V.K. Majotra, Member (A)

The applicant has challenged order dated 2.5.1998 (Annexure A-1) passed by respondent No.2; General Manager, Ordnance Factory Board, Ordnance Factory, Muradnagar whereby a penalty of reduction of pay from Rs. 4270/- p.m. to Rs. 4030/- p.m. in the pay scale of Rs. 3050-75-3950-80-4690 for a period of one year with cumulative effect has been imposed upon the applicant in a disciplinary enquiry.



2. We have heard the learned counsel and perused the material on record.

3. The following charges were levelled against the applicant vide Annexure A-5 dated 30.3.97:-

"Gross-Misconduct, Carelessness towards his duty, failed to maintain absolute integrity & devotion to duty and conduct unbecoming of a Govt. servant in violation of Rule 3 of CCS (Conduct) Rules, 1964, in so far as Shri S.C. Sethi, T.No. 4112/6536/Q.C., Examiner (Skilled) was required to inspect 100 Nos. Bucket Elevators as per OFM Supply order No.1963002 dated 18.4.1996 at the premises of M/s Prabha Steel Fabricator, Ghaziabad. The said Shri S.C. Sethi declared the Bucket Elevators as accepted without carrying out inspection of the same and gave an inspection report to the firm and also prepared the Inspection Note although the Bucket Elevators were not manufactured by the firm upto that time".

4. Drawing our attention to the Inspection Report in respect of the Bucket Elevators, the learned counsel stated that the applicant had himself stated thereon that he had checked 5 Nos. of Bucket Elevators out of 100 Nos. He further stated that the other examiner Shri P.N. Sharma had also signed on the inspection report and that two superior officers had also recorded the inspection note on the Inspection Report. However, no action was taken against Shri P.N. Sharma, the other examiner and the superior officers who have not pointed out any irregularity in checking of only 5 nos. of Bucket Elevators out of a total of 100 nos. The learned counsel also pointed out that the impugned orders of

h

the Disciplinary Authority as well as the Appellate Authority are mechanical and non-speaking orders and, therefore, are liable to be set aside.

5. The enquiry report has been enclosed at Annexure-6. In the charge-sheet, apart from the fact that the allegation has been made against the applicant that ^{whereas} he was required to inspect 100 Nos. of Bucket Elevators, ^{he had accepted them without carrying out the requisite inspection} It is also alleged that such number of Bucket Elevators has not been manufactured by the firm up to the time of inspection. In the enquiry report, it has been stated that Shri N.K. Gupta, WM/PV has gone to the premises of M/s Prabha Steel Fabricator, GZB and found that only 36 nos. of Bucket Elevators were under manufacture at firm premises as on 24.2.97. However, the applicant has cleared through his inspection report of 7.1.97, total quantity of 100 Nos. of Bucket Elevators, out of which 5 nos. of Bucket Elevators were checked only. The Enquiry Officer has explained the circumstances how the name of other Inspector Shri P.N. Sharma had appeared on the inspection note. On the basis of the record, he has stated that although Shri P.N. Sharma and Shri S.C. Sethi ^{yet} has been allotted inspection work separately but both have done inspection work on 7.1.97 together that is why inspection report dated 7.1.97 shows signature of both the applicant and Shri P.N. Sharma, but the final inspection note dated 8.1.97 had been signed by the applicant himself as examined. The applicant had raised the point before the Enquiry officer that he had never been advised by his superiors to check 100% items as such he had

h


checked only 5% of the items. The Enquiry Officer has contended that as per the laid down procedure, 100% inspection has to be carried out and if the applicant was ignorant of inspection procedure, he ought to have sought guidance from his superiors. In this background, after a detailed discussion, the Enquiry officer found the charges proved against the applicant. The Disciplinary Authority vide Annexure A-1 dated 2.5.98 has contended that whereas the Enquiry officer had found applicant guilty of the charges levelled against him, the enquiry report was served on the applicant and representation made by the applicant thereon was also considered by the Disciplinary Authority. In this manner, the Disciplinary Authority had also on ^{finding} the charges proved against the applicant had imposed the impugned penalty on the applicant. The Appellate Authority vide his order dated 27.9.99 (Annexure A-2) rejected applicant's appeal against the order of the Disciplinary Authority. The Appellate Authority has stated that the applicant was granted full opportunity to defend his case but he had failed to produce any witness. He has further stated that the enquiry was conducted as per the laid down procedure in CCS (CCA) Rules, 1965 and that the quantum of penalty imposed on the applicant was commensurate with the charges proved against the applicant.


6. After considering the entire record, we find that basically, the applicant had himself in his inspection note admitted that he has inspected only 5 nos. of Bucket Elevators out of a total of 100 nos.

lb

of Bucket Elevators. Whereas it has not been pointed out that under the rules or instructions, the applicant could have inspected only a small number of items out of a total number of items in inspection, we find that basically in this enquiry, the documentary evidence has been considered to suffice for proving the allegations against the applicant. Whereas the Enquiry Officer had submitted a detailed enquiry report discussing all aspects of the matter, the Disciplinary Authority had passed detailed and speaking orders as per the laid down procedure and provisions of the relevant laws. The Appellate Authority has also found that the applicant had been afforded full opportunity of defence; the enquiry had been conducted as per the rules and laid down procedure and that the quantum of punishment was commensurate with the charges proved.

7. As a result, we do not find any infirmity in the proceedings held against the applicant and also in the punishment meted out to the applicant for charges proved against him. Accordingly, the OA is dismissed in limine. No costs.


(V.K. Majotra)
Member (A)


(Ashok Agarwal)
Chairman

cc.