

6
CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.2436/1999

New Delhi this the 12th day of March, 2001.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

Bala Singh Jangangi
Store Keeper, Forge Shop,
Ordance Factory Estate
Muradnagar
Distt. Ghaziabad (UP)

... Applicant

(By Shri Yogesh Sharma, Advocate)

vs.

1. Union of India through
the Secretary
Ministry of Defence
Govt. of India
New Delhi.
2. The Director General
Ordance Factory Board
10-A Auckland Road
Calcutta.
3. The General Manager
Ordance Factory, Muradnagar
Distt. Ghaziabad (UP).

... Respondents

(By Advocate Shri V.S.R. Krishna)

O R D E R (ORAL)

Shri Govindan S. Tampi:-

Heard the counsel for the applicant and the respondents.

2. Shri Yogesh Sharma, the learned counsel for the applicant detailed the circumstances of the case and assailed the impugned order dated 9.2.1999 imposing the punishment of reduction to lower stage by one stage i.e. from Rs.3200/- p.m. to Rs.3125/- p.m. in

(7)

-2

the pay scale of Rs.3050-4590/- of the applicant for a period of one year with cumulative effect. The same has been confirmed by the appellate order dated 12.7.1999. Shri Yogesh Sharma points out that this is a case where though the enquiry officer has originally held the charge as not proved, but the same was reviewed and report was got prepared on the basis of additional facts which were not made available to the applicant. It is only in the ^{subsequent} ~~original~~ proceedings the Enquiry Officer gave a subsequent report holding the applicant to be guilty which was found favour with the disciplinary authority as also the appellate authority.

3. On the other hand, Shri V.S.R.Krishna, learned counsel for the respondents pleads that they had proceeded in imposing the aforesaid penalty on the applicant after fully following the procedure set out in rules and regulations and no interference is called for by the Tribunal.

4. Having gone through the records of the case and having heard the counsel for both the parties, we are convinced that it is a case where the proceedings against the applicant have resulted in miscarriage of justice inasmuch as all the material which has been brought on record at the time of enquiry has not made available to him at the relevant time. All the more so as the first enquiry report was returned by the Disciplinary Authority for redoing the enquiry. In the circumstances, the findings arrived at in the

proceedings are vitiated and consequently order of the disciplinary authority accepting the same and imposing the punishment on the applicant and the appellate order confirming the same are liable to be quashed and set aside.

5. In the result, the application succeeds and the impugned order of the disciplinary authority as also of the appellate authority are quashed and set aside. The matter is remitted back to the enquiry officer with a direction to start the enquiry from the stage of supply of all relied upon documents to the applicant. He shall give the applicant full opportunity to contest the charge and produce his witnesses and evidence in his support and explain them in hearing and then finalise the enquiry report for action by the Disciplinary authority. This should be completed within four months from the date of receipt of a copy of this order. Disciplinary authority can thereafter pass a reasoned and speaking order within next two months after giving a copy of the enquiry report to the applicant and obtaining his representation, if any.

6. The application is accordingly disposed of. No costs.

(Govindan S. Tampi)
Member (A)

/sns/

(Ashok Agarwal)
Chairman