

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

O.A. No.774/95

HON'BLE SHRI JUSTICE K.M. AGARWAL, CHAIRMAN  
HON'BLE SHRI R.K. AHOOJA, MEMBER(A)

New Delhi, this the 24<sup>th</sup> day of September, 1999

Shri Kailash Singh, LDC  
Central Vehicle Depot  
Delhi Cantt, New Delhi

....Applicant

(By Advocate: Ms. S. Janani)

Versus

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

2. The Director General Ordnance Services  
Master General of Ordnance Branch  
Army Headquarters, DHQ P.O.  
New Delhi 110 011

3. The Army Ordnance Corps Records  
P.O. Box No.3, Trimulgherry Post  
Secunderabad 500 015

4. The Commandant  
Central Vehicle Depot  
Delhi Cantt, New Delhi

....Respondents

(By Advocate: Shri Rajeev Bansal proxy  
of Shri B.K. Aggarwal)

O R D E R

[By Hon'ble Shri R.K. Ahooja, Member(A)]

The applicant was a civilian employee at Central Vehicle Depot, New Delhi. His case is that in March, 1990 Brig. Avtar Singh, who was appointed as Commandant of the Depot, became prejudicial to the employees who were constrained to resort to agitation and form a trade union due to the anti-employee orders passed by the Commandant. Ultimately, between 18th July to 27th July, 1991 the workers of the Depot went on strike. Thereafter suspension of the applicant alongwith other workers was ordered and disciplinary

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proceedings were initiated on the charge that the applicant addressed an illegal meeting, delivered provocative speech and used abusive language against the Commandant in a meeting in front of the Depot gate on 23rd July, 1991. He also did not mark his attendance in the attendance register and was absent from duty. The applicant alleges that instead of holding a joint enquiry, the Commandant ordered separate enquiries in which separate Enquiry Officers were appointed. These Enquiry Officers were Presenting Officers and witnesses in some other cases. It is also alleged that the enquiries were also not conducted properly as all the Enquiry Officers were subordinates of the Commandant against whom the allegations had been made by the employees. The applicant alongwith four others also approached this Tribunal in O.A. No. <sup>3005</sup>355/91. Noting that the Commandant Shri Avtar Singh had since been transferred and a new Commandant had been appointed, the Tribunal in its order dated 14.1.1994 directed that the interest of justice would be squarely met if fresh orders were passed by the new Commandant after giving an opportunity to the petitioners. The disciplinary authority thereafter passed an order dated 3.7.1993 (Annexure 12) imposing the punishment of compulsory retirement from service. On appeal, the appellate authority vide its order dated 12.1.1995 passed the impugned order modifying the penalty to that of reduction of pay by three stages for a period of three years with cumulative effect. It is against the order of penalty that the applicant has come before the Tribunal.

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2. The learned counsel for the applicant pressed the point before us that the charges against the applicant have no basis whatsoever as there was sufficient evidence to show that the applicant had suffered an injury and had gone to the hospital for treatment when the alleged incident in front of gate in office of the Commandant took place. The learned counsel drew our attention to O.P.D. Ticket No.F.C.13629/91 dated 23.7.91 issued by Dr. Ram Manohar Lohia Hospital, New Delhi (photostat copy at Annexure VII). According to this the applicant had been examined and was diagnosed to have swelling on his feet and was advised rest for two days. It was thus contended that it is a case of no evidence.

3. The learned counsel also reiterated the point that there was a conspiracy to suppress the union activity and, therefore, false cases were engineered against the applicant and other employees to suppress their legitimate rights. The enquiry officers were subordinates of the Commandant, against whom the agitation was going on and, therefore, the finding against the applicant was the outcome of malice.

4. We have carefully considered the aforesaid contentions. In so far as the question of no evidence is concerned, the case of the applicant hinges on the point that he could not have been present at the alleged place as he had met with an accident at Central Secretariat while proceedings towards the office and was thus obliged to go to Dr. Ram Manohar Lohia Hospital, New Delhi. We notice that this point was

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also taken up before the appellate authority which noted in its order that the prescription produced by the applicant did not indicate the time when the applicant had allegedly gone to Dr. Ram Manohar Lohia Hospital. The argument that the request of the applicant to call the Dr. Ram Manohar Lohia Hospital doctor as witness was not conceded was also dealt with by the appellate authority. The finding of the appellate authority that the applicant was not able to specify the particulars of the doctor concerned nor could he produce him as a defence witness, is given therein. We do not find that in the facts and circumstances of the case since no time was indicated on the prescription slip the finding of the disciplinary authority could be considered as arbitrary and without any basis. Where two possible inferences can be drawn and the disciplinary authority adopts one, it is not open to the Tribunal to substitute the second inference on its own appreciation of the evidence before it.

5. In so far as the allegation of mala-fide is concerned, the applicant had raised the same point before the Tribunal in O.A. No.3005/91. The Tribunal had then given a direction that a fresh order should be passed by the successor of Brig. Avtar Singh after giving an opportunity to the applicant and his colleagues to make a representation. This was done by the respondents. There is no allegation of mala-fide against Brig. Yadav Mukherjee, who succeeded Brig. Avtar Singh. Therefore, as a fresh opportunity was given to the respondents as per orders of the Tribunal, it can neither be held that


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the impugned order was the outcome of malice or that the applicant did not have a proper opportunity to present his case.

6. We also find that there was evidence from witnesses that the applicant was present on the site and that he had indulged in activities alleged against him. We, therefore, find no ground for interference.

7. The O.A. is accordingly dismissed. However, there will be no order as to costs.

  
(R.K. AHOOJA)  
MEMBER (A)

  
(K.M. AGARWAL)  
CHAIRMAN

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