

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

O.A. No. 48/1994

(b)

Monday this the 26th day of July, 1999

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN  
HON'BLE MR. S.P. BISWAS, ADMINISTRATIVE MEMBER

Sukhpal Singh S/o Sh. Diwan Singh  
R/o RZ-45 'C' Raj Nagar II  
Palam Colony, New Delhi. 45. ... Applicant

(By Advocate Mr. V.P. Sharma)

Vs.

1. Union of India through the Secretary  
Ministry of Defence, Govt. of India  
New Delhi.
2. The Chief of the Army Staff  
Army Headquarters, Sena Bhavan,  
New Delhi.
3. The Commandant,  
Headquarters Tech. Group  
EME, Delhi Cantt. 10.
4. The Commandant, No. 505  
Army Bare Workshop  
Delhi Cantt. 10.

(By Advocate Mr. K.R. Sachdeva)

The application having been heard on 26.7.1999,  
the Tribunal on the same day delivered the following

O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

On 26.2.1990 at about 15.20 hours Vij  
Tank BA No. WX-711 driven by the applicant, who  
was a Vehicle Mechanic met with an accident. Alleg-  
ing that the applicant has caused the accident  
due to his negligente a Memorandum of Charge dated  
27.4.92 was served on the applicant. As the applicant  
denied the charge an enquiry was held. The Enquiry  
Officer submitted his report with the following finding:

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(A)

"T.No.4252 CM AFV Sh. Sukhpal Singh is to be partially blamed for the accident which had taken place due to the failure of breaks and breakage of half shaft of right side of Tank No.WX.771."

The disciplinary authority on the basis of the above finding held the applicant guilty and imposed on him a penalty of reduction to the minimum scale of pay i.e., Rs.1320/- in the time scale of pay Rs.1320-30-1440-EB-40-2040 for a period of two years with further directions that he would not earn increment of pay during the period of such reduction and that on expiry of this period the reduction will have the effect of postponing of his future increments of pay. The appeal submitted by the applicant was rejected by the appellate authority. Aggrieved by these orders, the applicant has filed this application.

2. The impugned orders have been assailed on various grounds including that the finding that the applicant was guilty was arrived at without any evidence at all.

3. We have gone through the pleadings and other materials available on record and have heard Shri V.P. Sharma, counsel for the applicant and Mr. K.R. Sachdeva, counsel for the respondents. On going through the enquiry report and the disciplinary authority's order, we find that there is nothing in the evidence on which any reasonable person would have reached the conclusion that the authorities reached. The evidence adduced at the enquiry does not show that the applicant has been

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(W)

guilty of negligent driving. The finding of the enquiry authority extracted in paragraph 1. of the order would clearly show that the accident was caused due to failure of break and breakage of half shaft of right side of Tank No. WX. 771. It is evident from that that the accident was an inevitable and that the applicant who drove the vehicle could not have been blamed at all.

4. In the light of the above discussion, we ~~xxxxxxxx~~ find that the impugned orders at Annexure A1 and A3 are liable to be set aside. In the result, the application is allowed, the impugned orders Annexure A1 and A3 are set aside with all consequential benefits, leaving the parties to bear their costs.

Dated this the 26<sup>th</sup> day of July, 1999.

  
S.P. BISWAS  
ADMINISTRATIVE MEMBER

  
A.V. HARIDASAN  
VICE CHAIRMAN

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