

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-1708/94

New Delhi this the 26th day of July, 1999.

Hon'ble Sh. A.V. Haridasan, Vice-Chairman(J)
Hon'ble Sh. S.P. Biswas, Member(A)

Sh. Bhisham Kumar,
S/o Sh. Som Nath Seth,
C/o Sh. K.L. Kapoor,
Behind Micro Station,
New Defence Colony,
Muradnagar(Ghaziabad).

..... Applicant

(through Sh. V.P. Sharma, advocate)

versus

1. Union of India through
the Secretary,
Ministry of Defence,
Govt. of India,
South Block,
New Delhi.
2. The Director General,
Ordnance Factory Board,
10-A, Auckland Road,
Calcutta.
3. The General manager,
Ordnance Factory,
Muradnagar,
Ghaziabad.

..... Respondents

(through Sh. VSR Krishna, advocate)

Order(oral)
Hon'ble Sh. A.V. Haridasan, Vice-Chairman(J)

The order under challenge in this application is the one dated 13.9.93 (Annexure A-10) by which the 3rd respondent imposed on the applicant a penalty of reduction of pay by one stage i.e. from Rs. 1470 to 1440 P.M. in the pay scale of Rs. 1320-20-1560-EB-40-2040 for a period of one year with cumulative effect. Before imposing the

said penalty, the applicant was served with a memorandum of charge in which it was alleged that the applicant Boiler Attendent Ordnance Factory, Muradnagar was guilty for gross misconduct-misbehaving, threatening and manhandling his incharge on 13.8.93. Alongwith articles of charge, a statement of imputation was not annexed as is required as per rules. On receipt of the said memorandum the applicant had on 26.8.93 given a reply denying the charge. He again submitted a letter to the G.M. on 4.9.93 wherein he, inter alia, stated that:-

"7. That on 13.8.1993 Shri V.K. Sharma, C/1-I/101 Section was going out from Main Gate and I was also going out. I asked him about my duty. But Shri Sharma told that he will not be given assignment and also Night Duty.

8. That Sir, aggrieved by his statement some hot words exchanged with me and Mr. Sharma. I am sorry for my act on that day. Moreover I was perturbed due to collic pain and family disturbance on the day of incidence.

In view of the above, I request to your goodself to pardon me for my act and I may be taken back on duty by revoking Suspension Order for which I shall remain grateful to you. I assure that in future I shall desist from such tyoe of activities."

2. The Disciplinary Authority, the 3rd respondent took this as an admission of the guilt and imposed the penalty. The appeal submitted was also dismissed. The applicant has assailed the order of the Disciplinary Authority as also that of the Appellate Authority. The applicant has stated in the application that the penalty has been imposed on him without holding an enquiry as in terms of Rule 14 of the CCS CCA Rules. The applicant has also stated

that he has not categorically admitted the guilt but had only stated that there had been hot exchange of words and had expressed regret of that and had never admitted manhandling or threatening of the incharge. The action of the Disciplinary Authority taking as an admission of guilt was unreasonable contends the applicant.

3. We have heard the learned counsel for both the parties.

4. On a careful scrutiny of the statement made by the applicant in Annexure A-6, it is seen that the applicant has not in clear and unequivocal terms admitted his guilt of misconduct alleged i.e. threatening and manhandling of his incharge. What was admitted by him was that there had been hot exchange of words and for that he felt sorry and prayed for pardoned. This statement in Annexure A-6 could not have been taken by the Disciplinary Authority as admission of guilt as argued by the learned counsel. Only if all the charges are admitted, it is permissible as per rules to impose a penalty without holding an enquiry because of charge is admitted in full no enquiry is necessary. The Annexure A-6 does contain an admission of the charge in full. We, therefore, find considerable force in the argument of the applicant that penalty imposed is not sustainable since it was imposed on the applicant without conducting an enquiry as he had not admitted the guilt in unequivocal and clear terms.

5. In the light of the above discussion, we set aside the impugned orders. However, we leave it to the respondents to hold an enquiry if they deem it fit and necessary on the basis of the memorandum of charge (Annexure A-4) in

accordance with law. There is no order as to costs.



(S.P. Biswas) .
Member(A)



(A.V. Haridasan)
Vice-Chairman(J)

/vv/