

**CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI**

**ORIGINAL APPLICATION No.210/00477/2017
(with MA No.210/556/2017)**

Dated this Friday, the 13th day of March, 2020

**CORAM: DR. BHAGWAN SAHAI, MEMBER (A)
R.N.SINGH, MEMBER (J)**

Arvind Baburao Gore, Age : 48 years, U.D.C. (P.No.109318),
High Explosives Factory, Khadki, Pune 411 003.
(R/at: 23/4, 'H' Type Qtr., Range Hills Estate,
Pune 411 020.

Applicant

(By Advocate Ms. Sujatha Krishnan)

VERSUS

1. The Union of India, through the Secretary,
Department of Defence Production, Ministry of Defence,
South Block, DHQ P.O. New Delhi 110 011.
2. The Chairman, Ordnance Factory Board,
10-A Esplanade East, Kolkata 700 001.
3. The General Manager, H.E. Factory, Khadki, Pune 411 003.
4. Shri Renjith Raj, Inquiring Authority,
Deputy General Manager, H.E. Factory, Khadki,
Pune 411 003.

- Respondents

(By Advocate Shri A.M.Sethna)

ORAL ORDER

Per : R.N.Singh, Member (J)

The applicant who has been working as Upper Division Clerk (UDC) has filed the present OA under Section 19 of the Administrative Tribunals Act, 1985 to challenge the charge memo dated 09.03.2017 (Annex A-1), issued under Rules 14 and 15 of the CCS (CCA) Rules, 1965.

2. The applicant has prayed for the following reliefs in the present OA :

“8(a). To allow the Original Application,

8(b). To quash and set aside the Chargesheet dt.09.03.2017 issued to the Applicant after a period of 9½ years of the occurrence of alleged misconduct,

8(c). To direct the Respondents to revise suspension allowance to 75% of his pay and allowances and pay arrears from the date he completed 3 months viz. 03.02.2008 onwards,

8(d). To direct the Respondent No.3 to consider revoking of the suspension of the Applicant considering the High Court has admitted Writ Petition and stayed the criminal proceedings in Session Court and it may take long for final decision in criminal proceedings,

8(e). To pass any other order which may be just and equitable in the facts and circumstances of the case,

8(f). To award the cost of application.”

3. At the outset, the learned counsel for the parties submit that during pendency of the OA, the suspension of the applicant has been revoked and the applicant is also getting subsistence allowance. However, the learned counsel for the applicant submits that the applicant has been getting the subsistence allowance only at the rate of 50% of the salary and the said subsistence allowance has not been revised and enhanced by the respondents.

4. The only ground to challenge the aforesaid charge memo is that the same has been issued by the respondents after around 9½ years. The Articles of charges are as under :

“ANNEXURE-I

Statement of Article of Charges framed against Shri Shri Arvind Baburao Gore, Designation – UDC, Per No.109318 of High Explosives Factory, Khadki, Pune 411 003.

ARTICLE-I

That the said Shri Arvind Baburao Gore, Designation-UDC, Per No.109318 stands charged for “Suppression of material

information – regarding his arrest by police authorities” which tantamounts to conduct unbecoming of a Government servant in violation of Rule 3(I)(iii) of CCS (Conduct) Rules 1964.

ARTICLE-II

That the said Shri Arvind Baburao Gore, Designation – UDC, Per No.109318 stands charged for “Submission of false information with a malafide intention” which tantamounts to conduct unbecoming of a Government servant in violation of Rule 3(1)(iii) of CCS (Conduct) Rules 1964.

ANNEXURE-II

Statement of imputations of misconduct or misbehaviour in support of articles of charge framed against Shri Arvind Baburao Gore, Designation – UDC, Per No.109318 of High Explosives Factory, Khadki, Pune 411 003.

ARTICLE-I & II

That the said Shri Arvind Baburao Gore, Designation – UDC, Per No.109318 was arrested by Khadki Police Authorities on 03.11.2007 for involvement in a criminal case and remained in police/judicial custody from 03.11.2007 at 10.30 pm to 20.11.2007 at 02.30 pm for offence registered under Section 376, 376(A), 420, 493, 495, 496 & 506 of IPC. The said Shri Arvind Baburao Gore failed to inform this office regarding his detention/arrest by the Police authorities. Later, the information regarding arrest and detention in custody as well as grant of bail by the Competent Court was confirmed vide letter dated 04.12.2007 from Police Station, Khadki, Pune.

The said Shri Arvind Baburao Gore instead of informing this office tried to suppress the information regarding his arrest and had sent a written application dated 05.11.2007 in Marathi requesting for leave from 05.11.2007 to 15.11.2007 on the ground that his son was sick without enclosing any medical certificate.

The said Shri Arvind Baburao Gore had sent a written application dated 05.11.2007 whereas he was under police custody w.e.f. 03.11.2007 and letter was received in the factory on the same day.

The above act on the part of said Shri Arvind Baburao Gore, Designation – UDC, Per No.109318 amounts to gross misconduct viz.: “Suppression of material information – regarding his arrest by police authorities” and “Submission of false information with a malafide intention” which tantamounts to conduct unbecoming of a Government servant in violation of Rule 3(1)(iii) of CCS (Conduct) Rules 1964.

ANNEXURE-III

List of documents by which the articles of charge framed Shri Arvind Baburao Gore, Designation – UDC, Per No.109318 of High Explosives Factory, Khadki, Pune - 411 003 are proposed to be sustained :-

01. Letter dated 05.11.2007 from Shri Arvind Baburao Gore
02. Khadki Police Station letter No.8421/07 dated 04.12.07.

ANNEXURE – IV

List of witnesses by whom the article of charge framed against Shri Arvind Baburao Gore, Designation – UDC, Per No.109318 of High Explosives Factory, Khadki, Pune 411 003 are proposed to be sustained :-

- Nil -"

5. The learned counsel for the applicant submits that during pendency of the OA, the enquiry was in progress and the Inquiry Officer has completed the enquiry. However, the applicant has not received a copy of the inquiry report.

6. We have perused the pleadings on record and have also considered the submissions made by the learned counsel for the parties. We are of the considered view that the aforesaid charges are based on the facts to be supported by the relevant documents and if at all the applicant has faced any difficulty in defending himself in the inquiry, the applicant may have taken all the grounds before the Inquiry Officer and he can agitate the same before the Disciplinary Authority.

7. In view of the aforesaid facts and circumstances, the respondents are directed to conclude the proceedings in pursuance of the aforesaid charge memo dated 09.03.2017

7 (Annex A-1) as expeditiously as possible and in any case within

three months from the date of receipt of a certified copy of this order.

8. We make it clear that we have not commented on the merits of the claim of the applicant but if the applicant is aggrieved of any of the order passed by the respondents, the applicant shall be at liberty to agitate his grievances in accordance with the Rules. No costs.

9. The pending MA also stands disposed of.

(R.N.Singh)
Member (Judicial)

(Dr. Bhagwan Sahai)
Member (Administrative)

kmg*

JD
16/09/2020

