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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 23 of 1986
~~XXX~~ No.

DATE OF DECISION 9th April 1986

Shri Rajbir Singh Petitioner

Shri A.P. Singh Advocate for the Petitioner(s)

Versus

Union of India and others Respondent

Shri M.L. Verma Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. S.P. Mukerji, Member

The Hon'ble Mr. H.P. Bagchi, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement ? Yes
2. To be referred to the Reporter or not ? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement ? No

JUDGMENT:

The petitioner has come up under Section 19 of the Administrative Tribunals Act challenging the order dated 3.6.83 passed by the Executive Engineer removing him from service. The material facts of the case are as follows:

2. The petitioner was working as a Beldar in Construction Division No.VIII, C.P.W.D., New Delhi of which Shri H.P. Gupta was the Assistant Engineer. It was alleged that on 11.2.81 at 11.30 a.m. the petitioner beat the said Assistant Engineer with shoe about which he lodged a written report with the Police at 12.30 p.m. on the same day. A departmental inquiry was also commenced and on the same day the Executive Engineer suspended the petitioner. The Executive Engineer of another Division was appointed an Inquiry Officer before whom oral and documentary evidence was led against the following two charges framed against the petitioner:-

- (i) That Shri Rajbir Singh, Beldar physically manhandled Shri H.P. Gupta, Assistant Engineer in his office situated in Enquiry Office at Pusa on 11.2.1981; and
- (ii) That Shri Rajbir Singh, Beldar beat Shri H.P. Gupta, Assistant Engineer with 'Shoe'."

The Inquiry Officer submitted a report concluding as follows:

"It is opined that there had been manhandling but manhandling with shoe is not proved beyond reasonable doubts because the P.W.11 on cross-examination not confirmed his statement. Thus the charges framed against Shri Rajbir Singh is not established."

3. The disciplinary authority sought clarification from the Inquiry Officer on 29.1.83 to which the Inquiry Officer replied as follows:

"Statement I article of charge framed against Shri Rajbir Singh, Beldar was misbehaviour with Assistant Engineer on duty.

Statement of imputation of mishandling in support of article I of charge against Rajbir Singh, Article 1 that Shri Rajbir Singh, Beldar physically manhandled Shri H.P. Gupta, Assistant Engineer in his office stated in Enquiry Office, Pusa at about 11.30 a.m. on 11.2.1981. Shri Rajbir


SLC

Singh Beldar beat Shri H.P. Gupta, Assistant Engineer with shoe. Charge against Shri Rajbir Singh, was further qualified as beating with shoe. In last para of my report dated 31.12.1982, I have stated that on going through witness produced it is opined that there had been mishandling by Shri Rajbir Singh, Beldar. But it was further opined that the beating with shoe is not established beyond reasonable doubts.

Hence my last concluding sentence was that the charge against Shri Rajbir Singh, Beldar is not established was in respect of the qualification of charge in respect of beating with shoe."

4. On the basis of the aforesaid clarification the Executive Engineer as disciplinary authority passed the impugned order on 3.6.83 removing the Petitioner from government service. Beofre passing the order, he had served the petitioner with a show cause notice about the penalty of removal from service on 22.3.83, but the petitioner did not send any reply but filed an appeal against the show cause notice on 25.3.83 to the Superintendent Engineer, even beofre the final order could be issued by the disciplinary authority. The disciplinary authority considered the points raised in the appeal and then passed the impugned order. The petitioner appealed against the impugned order to the Superintending Engineer who rejected the same on 30.8.83 confirming the impugned order. The order of the appellate authority is a detailed speaking order in which all aspects of the case were gone into.

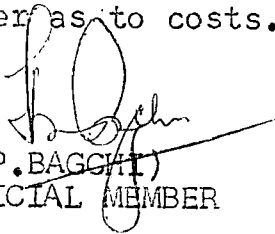
5. The petitioner filed a review petition on 9.8.85 long after the limitation period of six months after 30.8.83 had expired.



6. We have heard the arguments advanced by the learned counsel for both the parties at length and gone through the documents on record. The learned counsel for the petitioner has categorically stated before us that there has been no defect in the entire procedure adopted by the disciplinary authority and higher authorities in the case. The plea of the petitioner that the inquiry was prejudiced cannot be accepted by us as the enquiry was conducted by an officer senior to the officer who was allegedly manhandled by the petitioner and the inquiry officer belonged to a different circle altogether. No specific evidence of malafide has been alleged or proved by the petitioner. The case has been gone into threadbare, once by the Inquiry Officer of the rank of Executive Engineer, again by the disciplinary authority and third time, by the appellate authority of the level of the Superintending Engineer. The petitioner did not apply for review within the prescribed period of six months. Taking the overall view of the case, we are convinced that there has been no injustice or miscarriage of justice in this case and no intervention by the Tribunal is called for. The charge of manhandling of the Assistant Engineer had been proved and the punishment of removal from service cannot be said to be excessive or disproportionate to the grave misdemeanour on the part of the petitioner. We, therefore, find no

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merit in the application and reject the same. In the circumstances of the case, there will be no order as to costs.


(H.P. BAGCHI)
JUDICIAL MEMBER


(S.P. MUKERJI)
MEMBER