

In the Central Administrative Tribunal
Principal Bench: New Delhi

OA No. 1519/87

Date of decision: 23.02.1993.

Shri Babu Singh

...Petitioner

Versus

Union of India through
Delhi Administration and Others

...Respondents

Coram: -

The Hon'ble Mr. Justice V.S. Malimath, Chairman
The Hon'ble Mr. I.K. Rasgotra, Member (A)

For the petitioner Shri Shyam Babu, Counsel.

For the respondents Shri Jagdish Vats, Counsel.

Judgement (Oral)
(Hon'ble Mr. Justice V.S. Malimath, Chairman)

The petitioner Shri Babu Singh was working as a Mechanic in the Motor Transport Workshop of the Delhi Police Administration. A Jail Van belonging to the Police department was sent to the workshop for repairs on 2.12.1981. Two officials Shri Ram Nath and Shri Bishember Singh who were incharge of purchase section purchased a sub-standard equipment differential assembly of Army Disposal and handed over to the petitioner for being fitted on the Van. The petitioner fitted the equipment on 19.1.1982. On 22.1.1982 after the van had run for nearly 320 kilometers there was a break down. This resulted in an investigation being made about the cause for such a situation. The authorities having made a preliminary enquiry decided to hold a joint disciplinary enquiry against the aforesaid two officials of the purchase section as also the petitioner. A charge memo dated 11.12.1985 was served on them. The substance of the charges are that so far as the two persons of the purchase section are concerned they are guilty of purchasing sub-standard equipment even though original

equipment was easily available in the market. They are, therefore charged of dereliction of their duties. So far as the petitioner is concerned, he has been charged with connivance with the officials of the purchase section. The petitioner gave a reply pleading his innocence, whereupon an enquiry was held by the enquiry officer appointed for the purpose. The enquiry officer gave his report on 8.2.1986 holding the charges levelled against the petitioner duly proved. The disciplinary authority after accepting the findings of the enquiry officer passed an order on 10.6.1986, imposing the penalty of forfeiting two years' of approved service permanently. On appeal the said order was confirmed by the appellate authority on 28.1.1987. It is in this background that the petitioner has approached this Tribunal for appropriate relief in this Application.

2. The principal contention of Shri Shyam Babu, learned counsel for the petitioner is that the evidence recorded by the disciplinary authority and confirmed by the appellate authority that the petitioner is guilty of connivance in the purchase of sub-standard equipment is based on 'no evidence'. Shri Jagdish Vats, learned counsel appearing for the respondents, however, maintained that there is enough material to support the finding in regard to connivance and, therefore, the Tribunal cannot interfere with the impugned orders. We have, therefore, to examine whether the finding regarding connivance by the petitioner is supported by evidence.

3. There is no direct evidence produced by the department in regard to the connivance in the matter of purchasing sub-standard equipment. If at all the

finding could, therefore, be based on circumstantial evidence. The question for consideration is as to whether there are any circumstances which have nexus with the alleged connivance in the matter of purchasing sub-standard equipment, on the part of the petitioner. So far as the responsibility of the petitioner as a Mechanic is concerned, it was to fit the proper equipment. The learned counsel for the respondents submitted that when sub-standard equipment is brought to him when original equipment is easily available in the market, the Mechanic would have noticed that the equipment is not the original one and refused to fit it. The petitioner not having taken such an attitude and having actually fitted the sub-standard equipment, this is a circumstance which proves connivance on the part of the petitioner. It is necessary to point out that the circumstance relied upon by the learned counsel for the respondents primarily bears on dereliction of duty if at all on the part of the petitioner as a Mechanic. It is necessary to point out that there is no charge of dereliction of duty on the part of the petitioner as a Mechanic. The charge is one of connivance with the other two officials of the purchase section in the matter of purchasing sub-standard equipment. It is also necessary to point out that this is not a case in which a sub-standard equipment was placed in the hands of the petitioner the Mechanic representing that it is an original equipment. If such was the position, one could have drawn the inference that the Mechanic would have easily seen the difference between the original equipment and the sub-standard equipment and if he did not raise any objection and fitted the equipment that it could only be because he was conniving with the two officials to

purchase the sub-standard equipment for being fitted. The case of the department as also the evidence produced is not to the effect that the records were created to show that the original equipment was purchased whereas in fact sub-standard equipment was purchased. The case of the department itself is that the documents of purchase show that it was not the original equipment. The reason assigned by the officials in the purchase section for not purchasing the original equipment is that the vehicle was urgently required for being put to use for some urgent work and that there was no time for them to secure the original equipment. The finding of course is that there was no such urgency and original equipment was available. All these circumstances support the inference that the officials of the purchase section were guilty of dereliction of duty in purchasing sub-standard equipment when the original equipment was available in the market. What is necessary to notice is that the petitioner, when he was handed over the equipment was not told that it is an original equipment, in which event he would have been put an enquiry to inspect the equipment to satisfy himself as to whether it is an original equipment. That he was not required to do. He was not told that what has been brought for being fitted is the original equipment. Hence the petitioner was not required to inspect the equipment that was brought to him for being fitted. Having regard to this background, it is impossible to say that there was any circumstance justifying the inference that the petitioner had a part to play with the two other officials of the purchase section in the matter of purchasing an equipment other than the original one. We are, therefore, satisfied that the finding regarding connivance of the petitioner in regard to the purchasing

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of sub-standard equipment is based on 'no evidence' It is well settled that where the finding is based on 'no evidence' it stands vitiated and the Tribunal has the jurisdiction to interfere with such finding.

4. For the reasons stated above, this petition is allowed and the impugned order of the disciplinary authority dated 10.6.1986 and the order of the appellate authority dated 10.6.1987 are hereby quashed. The respondents are directed to grant all consequential benefits flowing from the quashing of the impugned orders expeditiously. No costs.

v. the
order
of the
16/7/87

I.K. Rasgotra
(I.K. Rasgotra)
Member (A)

V.S. Malimath
(V.S. Malimath)
Chairman

'San.'

Filed M.P. No 1908/93
Seeking connection
judgment.

MP 1908/93
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At the request of Sh. G. B. Bhattar, Counsel for Sh. Shyam Babu, case adj to 16-7-93

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