

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 2003/90

New Delhi this the 8th day of December, 1994

HON'BLE SHRI JUSTICE S. C. MATHUR, CHAIRMAN
HON'BLE SHRI P. T. THIRUVENGADAM, MEMBER (A)

(By Advocate Shri V. P. Sharma)

Versus

1. Union of India through the Secretary, Ministry of Defence, Govt. of India, (Production & Supply), New Delhi.
2. The Director General Ordnance Factories Board, Ministry of Defence, 10-A, Aukland Road, Calcutta - 700001.
3. The General Manager, Ordnance Factory, Muradnagar, Ghaziabad. Respondents

(By Advocate Shri V. S. R. Krishna)

ORDER (ORAL)

Shri Justice S. C. Mathur —

The applicant was charge-sheeted for two alleged misconducts - (1) unauthorised absence, and (2) using abusive language towards the Foreman and Works Manager. The applicant submitted reply to the chargesheet and denied the allegations. The inquiry officer recorded the depositions of relevant witnesses and submitted his report to the disciplinary authority. The disciplinary authority by its order dated 22.4.1989 held the applicant

guilty of the misconduct and imposed the punishment of reduction in the time scale. The applicant preferred appeal before the appellate authority where he did not meet with a better fate. Aggrieved by the imposition of punishment, the applicant approached this Tribunal.

2. We have heard the learned counsel for the parties who have taken us through the record.

3. The learned counsel for the applicant has submitted that the chargesheet was vague and the disciplinary authority did not pass a reasoned order and did not examine the evidence on record. He submits that the inquiry officer also did not enter into the exercise of examining the depositions and the report of the inquiry officer also cannot be said to be a speaking one. Hence, the report of the inquiry officer and the order of punishment are both challenged and they are sought to be quashed.

4. The report of the court of inquiry is on record and we have examined the same. After narrating the events leading to the issue of chargesheet and the examination of witnesses, the inquiry officer suddenly jumps to the conclusions which have been recorded in following terms : -

"On going through various charges put up by the presenting officer, examination of the witnesses and other documents it is observed that the accused Shri PANNA LAL, T.NO. 3179/3431/CM is a person of doubtful integrity and habits.

- (i) He is of the habit of doing things very carelessly and on his own.
- (ii) He was in the habit of using abusive language to his fellow workers and other section staff.
- (iii) He used to neglect the work assigned to him deliberately in a predetermined manner. The reason being that by this he can only avoid paying to his ex-wife who was divorced and his pay was attached by the Court. By this means also his "Take home pay" was same as that when he was working.
- (iv) He should not be entrusted with Govt. plant and machineries to which he may cause immense damage by negligence and carelessness.

CONCLUSION :-

It is concluded that Sri PANNA LAL, T.NO. 3179/3431/CM is found guilty of the charge framed against him as which amounts to gross misconduct and indiscipline for the conduct of a Govt. servant."

From the above, it will be seen that there is no discussion of the evidence adduced before the inquiry officer. The inquiry officer has himself referred to the fact that witnesses were examined. If witnesses were examined, it was his obligation to give a brief resume of the deposition made by each witness, and why he preferred to rely on the evidence of the prosecution witnesses, over the depositions made by the defence witnesses. Apart from this infirmity, the inquiry officer has recorded finding in excess of the charge levelled against the applicant. The charge levelled against the applicant was of using abusive language only against certain individual or individuals on one particular occasion. The applicant was not charged with the habit of using abusive language. Again, the applicant was charged with remaining absent

during a certain period. There was no allegation of his absenting habitually from duty. This is an infirmity in the findings of the court of inquiry.

5. The learned counsel for the respondents submitted that the aforementioned infirmity stands cured in the order of the appellate authority. He has taken us through the order of the appellate authority. The order of the appellate authority is certainly better than that of the disciplinary authority, but that order also does not completely cure the defects in the proceedings. The appellate authority has mentioned in its order that all prosecution witnesses confirmed that the applicant was found missing from his place of duty on 14.12.1987 and 16.12.1987 from the E & H Pump from 8.00 a.m. to 5.00 p.m. The submission of the learned counsel is that this statement in the appellate order shows that he considered the depositions of all the prosecution witnesses and he found the statement proved to the effect that the applicant was found missing at the relevant time. We find substance in the submission of the learned counsel. However, the finding of using unparliamentary language cannot be sustained as the language actually used has not been deposed to by any of the witnesses. Without the language being deposed to before the appellate authority, it was not possible for him to make an assessment whether the language was actually parliamentary or unparliamentary. For this reason, the appellate order will also have to be quashed.

6. While we do not find any error in the chargesheet so far as it relates to unauthorised absence of the applicant, we are of the opinion that the allegations relating to use of abusive language are absolutely vague and the chargesheet in respect thereof cannot be sustained.

7. In view of the above, the O.A. is allowed and the chargesheet to the extent it relates to the use of abusive language by the applicant is hereby quashed as also the orders of punishment passed by the disciplinary authority and the appellate authority. The disciplinary authority shall be free to pass fresh orders in respect of the charge of unauthorised absence, taking into account the observations made hereinabove. There shall be no orders as to costs. Interim order, if any operating, shall stand discharged.

P. J. L.

(P. T. Thiruvengadam)
Member (A)

S. C. Mathur
(S. C. Mathur)
Chairman

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