

(S)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.No.2172/1990

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)

Harpal Singh Rajput, working as P.A., In the section of Estt. Ordnance Factory, Muradnagar Distt. Ghaziabad (UP).

....Applicant

By Shri V P Sharma, Advocate

Versus

1. Union of India through The Secretary
Ministry of Defence Production, Govt of India
New Delhi.
2. The Director General
Ordnance Factories Board, Ministry of Defence
10-A, Auckland Road,
Calcutta-700001.
3. The General Manager
Ordnance Factory Muradnagar
Distt. Ghaziabad (U.P.)

....Respondents

By Shri V S R Krishna, Advocate

O R D E R (Oral)

Hon'ble Shri Justice S.C.Mathur, Chairman

The applicant has challenged the punishment of reduction in rank (i.e. from Chargeman Gr I to P.A.) to the minimum of the scale in the grade of P.A. for a period of 3 years as a result of a disciplinary proceeding held against him.

2. The applicant was chargeman in the Ordnance Factory, Muradnagar. The substantial charge against him was that he obtained LTC advance for the block year 1982-85 for himself and his family comprising his father, his mother and his sons and daughters but he performed the journey alone. The

Chargesheet levelling the said charges was admittedly served upon him. He submitted reply and thereafter witnesses were examined and the punishment was

imposed by order dated 14.12.89. By the said order he has been reduced in rank i.e. from Charge man Grade I to the minimum of the time scale for the Grade of P.A for 3 years with effect from the date of issue of the order. The appeal preferred by the applicant did not succeed.

3. The imposition of punishment has been challenged on a number of grounds. The first ground is that the applicant was not supplied with copies of documents relied upon in support of the charge. It is not disputed that the applicant made application to the concerned authorities for supply of documents referred to in the chargesheet and the authority instead of supplying copies gave permission to the applicant to inspect the said papers. The applicant inspected the said papers and submitted his defence. Thereafter during the course of the enquiry he did not make any request for supply of the said copies. Obviously he did not require copies of the said papers for effectively dealing with the charge levelled against him. On these facts in our opinion it cannot be said that the applicant did not have reasonable opportunity to defend himself. Accordingly the first ground fails.

4. In support of the submission that inspection alone is not sufficient, the learned counsel for the applicant has cited ^{JKN} *Z. Dikshita Vs Union of India* reported in ATR 1986(2) SC 186. In this case instead of supplying copies of the documents relied upon inspection had been allowed to the petitioner. During the course of the inspection he wanted to make notes from certain documents. For that purpose he wanted the assistance of a stenographer. The assistance of stenographer was refused. It is on these facts that Their

Lordships held that the principle of natural justice has not been complied with. However, in this case the supply of documents was specifically refused. In the present case the supply of documents was not specifically refused. The applicant was told to inspect the record in order to prepare his defence. He prepared his defence and thereafter never made any request for supply of the copies. This case is therefore distinguishable on facts.

5. The next ground of challenge is that the applicant was not allowed the assistance of a legal practitioner. The applicant had indeed requested that he may be allowed to plead his case through a legal practitioner. Instead of legal practitioner he was allowed the assistance of a Government servant of his choice. The applicant availed of this facility and engaged a Government servant to represent him at the enquiry. The applicant had no vested right to be represented through a legal practitioner. The applicant was claiming representation through legal practitioner on account of the representation which was being made on behalf of the Government. It was pointed out to him that on behalf of the Government only CBI Inspector was representing the Government and not a prosecution officer of the CBI or Govt law officer. In the circumstances it was pointed out to the applicant that he was not being placed in any disadvantageous position on account of the representation on behalf of the Government. In our opinion, the procedure followed has not resulted in failure of justice and the applicant cannot complain of failure of principle of natural justice.

6. The next submission of the learned counsel is that the disciplinary authority did not pass a reasoned order. In the present case, the disciplinary authority has accepted the findings recorded by the Enquiry Officer. The report of the Enquiry Officer is at page 130. It deals with the charges and oral evidence and then records the finding of mis-conduct ^{is of} alleged against the applicant. Since impugned order ~~of~~ of affirmation, in our opinion no error has been committed by the disciplinary authority in not separately recording findings on the evidence adduced in the case. The order of the Disciplinary Authority has to be read along with report of the enquiry officer. The reasons recorded by the enquiry officer became reasons of the Disciplinary Authority.

7. The last submission of the learned counsel is that the applicant was prejudiced in the trial in as much as enquiry officer did not adjourn hearing to enable the applicant to produce three more witnesses out of the 8 cited by him. As submitted by the learned counsel, the applicant had cited 8 witnesses in support of his defence ^{and out of these 8} he produced 5 and sought time to produce the remaining 3 witnesses. This adjournment was refused. To grant adjournment or not to grant adjournment was in the discretion of the enquiry officer. It is not for this Tribunal to sit in judgement over that discretion. Accordingly this ground also fails.

8. In view of the above, the OA is dismissed with costs to the respondents. Interim order, if any operating, shall stand discharged.

P. T. TIRUVENGADAM
(P.T.THIRUVENGADAM)
Member(A)
8-12-94

S. C. MATHUR
(S.C.MATHUR)
Chairman
8-12-94