

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

OA No.1253/92

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NEW DELHI, THIS THE 21<sup>st</sup> DAY OF JULY, 1997.

HON'BLE MR. JUSTICE K.M.AGARWAL, CHAIRMAN  
HON'BLE MR.N.SAHU, MEMBER(A)

Shri Bansi Lal  
S/o Late Shri Laloo Ram  
R/o House No.1256  
Arjun Nagar  
Gurgaon (Haryana)

... Applicant

(BY ADVOCATE SHRI S.M.RATTAN PAUL)

Vs.

1. Union of India  
through the Secretary to the  
Government of India  
Ministry of Defence  
South Block  
New Delhi-110 011.

2. The Director General of  
Ordnance Services  
Army Headquarters  
South Block, DHQ P.O.  
New Delhi-110 011.

3. The Commandant  
Ordnance Depot  
Shakurbasti  
Delhi-110 056.

... Respondents

(BY ADVOCATE SHRI M.L.VERMA)

ORDER

JUSTICE K.M.AGARWAL:

By this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant has made a prayer for directing the respondents to reinstate him in service with all consequential reliefs, after quashing the impugned order of removal passed by the disciplinary authority and the appellate order by the appellate authority.

2. Briefly stated, the applicant was in the regular appointment of the respondents as a Mazdoor in Grade 'D'. He was chargesheeted for unauthorised

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absence from duty from 19.1.1990 as also for disobedience with the office letter dated 1.2.1990 to report for duty forthwith or forward a medical certificate from CGHS Dispensary/AMA, if he was sick, along with leave application. The charges were found proved. The report of the inquiry officer was accepted and accordingly, the impugned order of removal from service was passed against the applicant on 19.1.1991. This order was confirmed in appeal by order dated 24.7.1992. Being aggrieved, the applicant has filed the present application for the aforesaid reliefs. The application is resisted by the respondents.

3. The learned counsel for the applicant urged as many as 8 points in support of the application, which may be briefly noted as follows:

- I. The impugned order of removal was not passed by the competent authority.
- II. The impugned order was not a speaking order.
- III. The charges were vague and indefinite.
- IV. No defence representative was given.
- V. Brief taken from defence, but not shown or supplied a copy thereof to the applicant in violation of Rule 14(1) of the CCS(CC&A) Rules, 1965.
- VI. Sub-rules (7) & (8) of Rule 14 of CCS(CC&A) Rules, 1965 were violated.
- VII. Ex-parte evidence was recorded in violation of the Rules.
- VIII. Punishment was awarded for absence subsequent to the date of chargesheet.

4. Having given anxious consideration to the various points urged for and on behalf of the applicant, we are of the view that no such

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irregularities could be pointed out by the learned counsel for the applicant as to warrant a conclusion that they resulted in any prejudice to the applicant. It does not appear necessary to give various details which may be had from the counter filed on behalf of the respondents for holding that most of the infirmities pointed out in reference to violation of rules or recording of ex-parte evidence were ill-founded. Ex-parte evidence was recorded, when the applicant omitted to attend the enquiry proceedings in spite of notice. Even if it is found that any of the rules or procedure was violated by the inquiry officer, there is nothing on record to warrant a conclusion that such violation resulted in any prejudice to the applicant. If the defence representative was required at the fag end of the enquiry, the enquiry could not be reopened. We find that the charges framed against the applicant were clear and definite. Order passed is not a mechanical order. It contains reasons and, therefore, all such contentions, as mentioned in para 3 here-in-above deserve to be rejected and are hereby rejected.

5. Referring to Part V of the Schedule given under CCS(CC&A) Rules, 1965, the learned counsel submitted that for the posts in lower formation under the Master-General of Ordnance's Branch, the Director of Ordnance Services for Army Ordnance Corps Civilian Personnel or the Director of Electrical and Mechanical Engineering for Electrical and Mechanical Engineering Civilian Personnel has been mentioned as the appointing authority, but the impugned order of removal has been

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passed by the Brigadier Commandant who was not the competent authority to pass the impugned order and, therefore, the impugned order of removal deserved to be quashed.

6. The said point was not raised in departmental appeal by the applicant. The appointment letter was also not produced so as to show that the applicant was actually appointed to the post by the Director of Ordnance Services or by Director of Electrical and Mechanical Engineering. If the appointment was made by the Brigadier, either his initial appointment was bad or as the appointing authority, the Brigadier was the competent authority for passing the impugned order. We, therefore, find no ground to uphold the technical objection raised on behalf of the applicant at this belated stage in an application to the Tribunal. We also find that the mis-conduct alleged was that of unauthorised absence from duty. It was not denied by the applicant that he remained absent for the period alleged without any permission or leave from the department. He also did not comply with the letter issued by the competent authority directing him to report for duty or to file application for leave on medical grounds along with the medical certificate. However, he tried to justify his absence on the ground that he was mentally disturbed. No certificate from any Mental hospital was filed. The defence was, therefore, rightly rejected and he was found to be guilty of the mis-conduct alleged against

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him. We, therefore, find no case for interference with the impugned order of removal as confirmed by the departmental appellate authority.

7. The learned counsel for the applicant cited several authorities in support of his various contentions. Some of the authorities are as follows:

1. B.C.Chaturvedi Vs. U.O.I, (1996) 32 ATC 44 (SC)
2. State of Punjab Vs. Jit Singh, AIR 1997 SC 29
3. State of Tamil Nadu Vs. S. Subramaniam, AIR 1996 SC 1232
4. Transport Commissioner vs. A. Radha Krishna Moorthy, (1995) 29 ATC 113

We are of the view that the said cases are quite distinguishable and it does not appear necessary to burden this order by giving detailed reasons for the conclusion reached by us in this regard.

8. In the result, this application fails and it is hereby dismissed, but without any order as to costs.

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(K.M. AGARWAL)  
CHAIRMAN

*N. Sahu*  
(N. SAHU)  
MEMBER(A)