

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A.No.1900/93

New Delhi: this the 24TH day of ^{AUGUST} ~~July~~, 1999.

HON'BLE MR.S.R.ADIGE, VICE CHAIRMAN (A)

HON'BLE MR.P.C.KANNAN, MEMBER (J)

P.N.Sharma, Skilled Examiner,
3851/6429/Q.C.,
Ordnance Factory,
Muradnagar,
Distt. Ghaziabad (UP)

..... Applicant.

(By Advocate: Sri A.K. Bhardwaj)
Versus

Union of India
through

the Secretary,
Ministry of Defence Production,
Govt. of India,
South Block,
New Delhi.

2. Desk Officer for & on
behalf of President of India,
President House,
New Delhi.

3. The Chairman,
Ordnance Factory Board,
10A, Auckland Road,
Calcutta- 700 001.

4. Shri D.S.P. Srivastva,
General Manager,
Ordnance Factory,
Muradnagar,
Distt. Ghaziabad (UP)

..... Respondents.

(By Advocate: Shri VSR Krishna)

ORDER

HON'BLE MR.S.R.ADIGE, VICE CHAIRMAN (A).

Applicant impugns the Disciplinary Authority's order dated 1.3.88 (Annexure-B) imposing the penalty of reduction in time scale of pay from Rs.1150 to minimum Rs.950/- for 2 years with cumulative effect; the appellate order dated 28.10.88 rejecting the appeal (Annexure-H) and the revisional authority's order dated 21.12.92 (Annexure-A) rejecting the



revision petition (Annexure-A).

2. Applicant was proceeded against departmentally on 4 Articles of Charge relating to misuse of LTC advance. It was alleged against him that while working in Ordnance Factory, Muradnagar, he was permitted to avail LTC for the block year 1982-85 in respect of himself and family to visit Goa and he drew an LTC advance also on 24.9.85, but he neither visited Goa nor did he return the advance. On 10.11.85 he submitted an application for change of destination from Goa to Bombay on the ground that due to illness he and his family could not visit Goa. He also submitted a photostat copy of a certificate on the letter head of the National Confederation of Central Govt. Employees showing a list of members along with a photocopy of a special ticket issued in the name of Shri P.R.Kumaramanglam, M.P. President National Confederation of Central Govt. Employees and Workers for Rs. 181,786/- from Hazrat Nizamuddin to Bombay and back. He claimed false LTC on behalf of his 3 children stating that they had proceeded from Hazrat Nizamuddin, Railway Station on 26.9.85 for Bombay and after completion of their journey had returned back on 2.10.85 whereas during this entire period the 3 children were present in their schools/institution, as per certificates attached.

3. The Inquiry Officer in his report (Annexure-K) held all the 4 articles of charge as proved. The Disciplinary Authority accepted these findings and issued the impugned order dated 1.3.88, against which the appeal was rejected on 28.10.88 and the

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revision petition on 21.12.92.

4. We have heard applicant's counsel Shri A.K. Bhardwaj and respondents' counsel Shri VSR Krishna. We have also perused the materials on record.

5. The first ground taken by applicant is that the respondents refused to produce the relevant documents demanded by applicant which vitiated the enquiry and the same is violative of principle of natural justice. In particular, it has been contended that the School Attendance Registers of applicant's children Rekha Sharma, Nidish Kumar and Sachin, who, as claimed by the applicant, were not present in the school/institution during the period 26.9.85 to 2.10.85, was not produced despite applicant's request which prejudiced him in the present enquiry. A perusal of paragraph 29 of the Inquiry Officer's report makes it clear that applicant's son Sachin was a student of Class II-C of the Kendriya Vidhyalya Ordnance Factory, Muradnagar, and the concerned register was shown to the Inquiry Officer as well as to the defence side. Hence atleast in so far as the Attendance Register relating to Master Sachin is concerned, applicant's contention that the same was not produced despite his request, is not correct. It needs to be mentioned that paragraph 29 of Inquiry Officer's report was not challenged by applicant's counsel during hearing.

6. This paragraph further makes it clear that Principal, K.V. Ordnance Factory, Muradnagar deposed that she had issued a certificate after personally

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verifying the attendance of Sachin for the relevant period. When asked, the Principal showed the concerned register to the I.O. and the defence side and the contents of certificate (Ex. S-5) was tallying with the attendance record of Sachin in the Attendance Register. The Inquiry Officer has rightly pointed out that it cannot be believed that the attendance of applicant's children would have been marked by proxy. Hence this ground fails.

7. The next ground taken is that once respondents had recovered the LTC advance from applicant's salary, nothing further survived, and the imposition of penalty was therefore an act of double jeopardy and hence violative of Article 20 of the Constitution. Merely because the LTC advance was recovered from applicant's salary, does not absolve him of misconduct of otherwise established and this is not a case of doubt jeopardy. Hence this ground also fails.

8. The next ground taken is that applicant was not allowed to cross examine the PWs, the Inquiry Officer himself cross-examined applicant; the request for change of the Inquiry Officer was denied; and applicant was not allowed to produce DWs.

9. In applicants' defence brief, he himself admits that PW Shri Indra Kumar Supervisor 'B' was cross examined. In so far as 'cross-examination' of applicant by Inquiry Officer is concerned, the Inquiry Officer was fully entitled to put questions to applicant to clear doubts and ambiguities. Nothing from the materials on record establishes that the Inquiry Officer went beyond this, and performed the role of

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the prosecution. Merely because the request for change in the I.O. was rejected, does not itself make the findings in the I.O.'s report unworthy of credence, in the absence of satisfactory material to establish that the I.O. acted in a partisan manner. Furthermore applicant has not established which particular DW was not allowed to be produced, which prejudiced him during the D.E. From the I.O.'s report it is clear that at one stage he had wanted Shri P.R.Kumaramagalam, MP;, the Railway Ticket Collector and the Conductor (name's not mentioned) to be presented, but later on he changed his mind and did not wish them to be presented. Moreover applicant in ground 5(k) himself states that respondents have not relied upon the defence witnesses produced by applicant which establishes that DWs were produced during the D.E. Hence this ground fails.

10. The ground that a copy of the enquiry report was not supplied to applicant before the issue of the impugned order is not sufficient to warrant interference in the D.E. as the penalty order was itself issued on 1.3.88 well before the Hon'ble Supreme Court's judgment in Ramzan Khan's case, and the contention that the impugned orders are cryptic and non-speaking ^{are} on the face of it without merit.

11. In the result the D.A. warrants no interference and is dismissed. No costs.


(P.C.KANNAN)
MEMBER(J)


(S.R.ADIGE)
VICE CHAIRMAN (A).