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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

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O.A. NO.2426/1993

New Delhi this the 19th day of July, 1999.

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

Chaman Lal Batra S/O F. C. Batra,
R/O WZ-276-G, Inderpuri,
New Delhi-110012.

... Applicant

(By Shri R. R. Rai for Shri B. S. Mainee, Advocates)

-Versus-

1. Union of India through
Secretary, Ministry of Defence,
South Block,
New Delhi-110011.
2. Director General (Ordnance Services),
Army Headquarters, D.H.Q.P.O.,
New Delhi-110011.
3. Officer-in-Charge AOC Records,
Secunderabad-15.
4. Commandant,
Central Ordnance Depot,
Delhi Cantt-110010. ... Respondents

(None present for Respondents)

O R D E R

Shri Justice K. M. Agarwal :

Penalty of compulsory retirement from service passed by the disciplinary authority on 20.5.1992 was modified to that of reduction of pay by three stages for a period of three years with cumulative effect by the appellate authority vide its order dated

12.3.1993. The applicant wants both these orders to be quashed and claims such consequential reliefs as are mentioned in paragraphs 8.2, 8.3 and 8.4 of the application.

2. Briefly stated, while working as Senior Clerk in the Army Ordnance Corps Civilian Services under the respondents, the applicant was chargesheeted for his unauthorised absence from 24.9.1985 to October, 1987, and for his failure to rejoin duty in spite of orders to that effect issued by the office. The charges were found proved and, therefore, by order dated 7.1.1988 he was awarded the punishment of compulsory retirement from service. This order was affirmed by the appellate authority. The applicant, therefore, filed O.A. No.483/1989 before this Tribunal which was allowed on 13.3.1991 with the following directions :

"We are therefore of the view that the application must succeed and that the applicant is entitled to the reliefs prayed for. Accordingly we set aside the order No.6953300/UDC/ADM(CIV) dated 7.1.1988 passed by the disciplinary authority and order No.B/12060/719/068C(ii) dated 9.1.1990 passed by the appellate authority, conveyed to the applicant vide Memorandum No.3552/1/6953300/EST-(NI) dated 7th September, 1988. We further direct that the applicant shall be deemed to be in service with effect from the date the order of compulsory retirement dated 7.1.1988 was implemented. He will be entitled to full pay and allowances w.e.f. the date the order dated 7.1.1988 compulsorily retiring him from service was implemented and the date of reinstatement in service with other consequential benefits, if any. This will however not preclude the disciplinary authority from revising the proceedings and continuing with it in accordance with law from the date of supply of enquiry report

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to the applicant and from taking a decision in accordance with law in regard to the period of continued absence on account of sickness of the applicant." (Emphasis supplied).

Pursuant to the liberty given and in accordance with the aforesaid directions made by the Tribunal in O.A. No. 483/1989 (portion emphasised) the disciplinary authority supplied a copy of the enquiry report to the applicant and ^{after} considering the representation made by him, again passed the impugned order of penalty of compulsory retirement from service. On appeal, this order was modified by the appellate authority and in place of compulsory retirement, the penalty of reduction of pay by three stages for a period of three years with cumulative effect was passed vide the impugned order. Being aggrieved, the applicant has filed the present O.A. for the aforesaid reliefs. O.A. is resisted by the respondents.

3. After hearing the learned counsel for the applicant and perusing the written arguments submitted by him, besides perusing the record, we are of the view that the applicant cannot be allowed to urge that the enquiry proceedings were vitiated for various reasons given by him, because similar contention was earlier raised or could be raised by the applicant in O.A. No. 483/1989 but the Tribunal did not quash the enquiry proceedings. The direction was to supply a copy of the enquiry report to the applicant and thereafter to proceed further with the disciplinary ^{to} proceedings in accordance with law. Accordingly we

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are of the view that the applicant can succeed in his present O.A. only if he is in a position to show any infirmity in the proceedings after the date of supply of enquiry report to him. That could not be done. The procedure followed could not be demonstrated to be illegal or irregular by the applicant. We cannot examine the enquiry report like an appellate court. There was material before the enquiry officer to hold that the applicant remained absent from duty without leave. The applicant also did not dispute that he was absent from duties during the alleged period of his absence from service. His plea that he was sick and had filed medical certificate subsequently was also examined by the enquiry officer. If on the material before him, the enquiry officer came to a conclusion that the misconduct was found proved and this report was accepted by the disciplinary authority, no interference can be made with those findings on the basis of reappraisal of evidence before the enquiry officer. The decision of Calcutta Bench of this Tribunal in SHEO NATH SINGH v UNION OF INDIA, ATR 1991 (2) CAT 585 relied on behalf of the applicant is of no avail to him, because that question was raised and also considered by the Tribunal in earlier O.A. No. 483/1989. No other infirmity in the impugned order of the disciplinary authority or that of the appellate authority could be demonstrated by the learned counsel for the applicant. We, therefore, find no merit in this O.A. and accordingly it deserves to be dismissed.

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4. In the result, this O.A. 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)

/as/