

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No.2447/93.

NEW DELHI, THIS THE 15th DAY OF JULY, 1999.

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

R.S. Kundu,
Senior Technical Assistant,
Directorate of Quality Assurance (WP)
'H' Block,
New Delhi.

.....APPLICANT

(BY ADVOCATE SHRI K.B.S. RAJAN)

vs.

1. The Union of India through
The Secretary,
Deptt. of Defence Production
Ministry of Defence
South Block,
New Delhi-110 011.
2. The Director General of Quality Assurances,
Ministry of Defence,
South Block,
New Delhi.
3. The Director of Quality Assurances (Navy),
Ministry of Defence,
West Block No.V,
R.K.Puram,
New Delhi-110 066.

...RESPONDENTS

(BY ADVOCATE SHRI P.H. RAMCHANDANI)

ORDER

JUSTICE K.M. AGARWAL:

By this O.A. the applicant has made a prayer for quashing the penalty order dated 24.9.1992, Annexure-B, of reduction of pay by three stages for a period of two years without cumulative effect and without affecting his pensionary benefits; as also the appellate order affirming the said order of the disciplinary authority.

2. Briefly stated, the applicant was a civilian employee in Defence Services. He was a Senior Technical Assistant in the Directorate of Quality Assurance (Warship Project). While in service, he was subjected to departmental enquiry for the alleged misconduct of clearing sub-standard

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and under-dimensioned ball bearings without proper inspection. After enquiry, the misconduct was found proved and accordingly a minor penalty of reduction of pay by three stages for a period of two years without cumulative effect and without adversely affecting his pensionary benefits was imposed on him. The appeal preferred against the order was dismissed by the appellate authority. This O.A. has, therefore, been filed for the aforesaid reliefs. The O.A. is resisted by the respondents.

3. It was argued that in the statement of imputations of misconduct it was alleged that only a vernier callipers was used for measurement of the ball bearings whereas at some other place it was alleged that vernier callipers was not used. It shows that departmental enquiry was not properly conducted and enquiry report was also not properly given.

4. We find no substance in the aforesaid contention. Not only there is evidence to prove the aforesaid allegation against him but in his letter dated 10.6.88 addressed to the Chief Quality Assurance Officer, he admitted that dimensions were checked by an ordinary vernier callipers and said that it was the only instrument made available to him by the office. In other words, he tried to throw the blame on the department, if proper measurement could not be taken and sub-standard ball bearings were certified by him to be of the required standard.


5. It was next argued that the applicant being a civilian in Defence Services, the provisions of CCS(CCA) Rules were not applicable to him and accordingly the enquiry proceedings and the penalty order based on such proceedings were vitiated.


6. The said argument is also without substance. On being questioned, if CCS (CCA) Rules were not applicable to the case of the applicant, what rules according to him were

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applicable, the learned counsel said, that he did not know. We further find that this question was never raised during the enquiry proceedings, before the disciplinary authority or the appellate authority or before the Tribunal in his earlier O.A.No.1310/93. The applicant himself had filed an appeal before the President of India under the provisions of CCS(CCA) Rules and, therefore, now for the first time he cannot be allowed to say that the said rules were not applicable in his case.

7. For the foregoing reasons, we find no substance in this O.A. and accordingly it is hereby dismissed, but without any order as to costs.


(K.M. AGARWAL)
CHAIRMAN


(N.SAHU)
MEMBER (A)