

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 6TH DAY OF DECEMBER, 2001

Original Application No.647 of 1996

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MR.C.S.CHADHA, MEMBER(A)

M.L.Kureel, S/o Late Shri Chhammi Lal  
Working as Chargeman Gr.II/Estate,OFC  
R/o Quarter No.61/323,Armapur Estate  
Kanpur.

... Applicant

(By Adv: shri M.K.Upadhyा)

Versus

1. The Union of India through  
The Secretary, Ministry of Defence  
Department of Defence Production  
South Block, New Delhi.
2. The Chairman, Ordnance  
Factories Board,  
10-A, Auckland Road,  
Calcutta-1.
3. The General Manager,  
Ordnance Factory(OFC)  
Kanpur.

... Respondents

(By Adv: Shri Amit Sthalekar)

O R D E R(Oral)

JUSTICE R.R.K.TRIVEDI,V.C.

By this OA u/s 19 of A.T.Act 1985 applicant has challenged the orders dated 5.1.1995 by which the Disciplinary Authority punished him with the penalty of stoppage of one increment for a period of two years without cumulative effect. The aforesaid order was challenged in appeal which was dismissed by Appellate Authority on 8.2.1996, which has also been challenged.

The facts in short, giving rise to this application are that applicant was served with a memo of charge under Rule 16 of CCS(CCA) Rules 1965 with the allegation that:

- i) That on 4.6.94 at 10 A.M. he committed

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gross negligence of duty as on checking neither sweepers detailed by him at the site were seen or found working nor the applicant was found present at the site.

ii) The second charge was that on 25.6.94 at 10.30 a.m. when the site i.e. Avadkar Bazar, Armapur was checked/inspected, the sweepers detailed in the Bazar under his supervision for work, were not found present on their duty spot and the applicant was found at a Lottery Shop at Welfare Crossing Armapur. Further more, he prepared and signed the W/T of T.No.57/NID at 8 a.m. on the said day but he marked/showed him (T.No.57/NID) absent in his daily diary.

iii) The third charge was that there is gross misconduct committed by the applicant on 25.7.94 that he deployed one Shri Vijay Kumar T.No646/NID, Sweeper, Estate at his Quarter instead of O.F. Inter College/ Primary, Armapur, Kanpur.

In response to the aforesaid memo of charge applicant filed his reply on 5.1.1995. The Disciplinary Authority, however, felt not satisfied with the explanation given by the applicant and passed the order which has been ~~filled~~ <sup>in confirmed</sup> in appeal.

Shri M.K.Upadhyaya learned counsel for the applicant has submitted that in his reply (Annexure 4) applicant pointed out that there was no NID with T.No.57/NID working under him and there was no question of preparing W/T showing his

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absence. Learned counsel submitted that the Disciplinary Authority while passing the order of punishment changed this number and mentioned W/T of T.No.575/NID in respect of charge no.2. It is submitted that applicant was never informed about this change that in place of 57 NID it shall be read 575/NID. It is further submitted that applicant raised this point before the Appellate Authority in para 6 and 7 of the memo of appeal but it has not been considered.

Shri Amit Sthalekar, on the other hand, submitted that the charges against the applicant were based on inspection conducted on three different dates. It was only a typing mistake that instead of 575 '57' was only typed in the memo of charge but the applicant was fully aware about the correct person, he never disputed the identity.

We have considered the submissions of learned counsel for the parties. It is true that there was some discrepancy in respect of T.No.575/NID. The applicant was charged in respect of T.No.57/NID and during pendency of the proceedings no attempt was made to correct the number if it suffered from any mistake. The correction was done only at the time of passing of the order of punishment. However, this variation was only in respect of part of charge no.2. Even if that is true, the punishment awarded to the applicant may be sustained on the basis of the charge no.1 and 3.

The learned counsel for the applicant has submitted that in respect of other <sup>charges</sup> ~~parties~~ also, the applicant raised objection before the Appellate Authority but they have not been considered. The learned counsel has placed before us the memo of appeal which is (Annexure 5 to the OA). We have perused the same. However, we are not satisfied that by any clinching material he established, <sup>his</sup> ~~the~~ <sup>bonafides</sup> with regard to charge number 1 and 3. <sup>Mere</sup> denial could

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not be sufficient to controvert the charge which was established otherwise by material evidence namely inspection reports. The penalty awarded is also minor and commensurate to the charge. In the circumstances, we do not find any good ground to interfere with the order.

The OA is dismissed accordingly. No order as to costs.

*B. Cheshire*

MEMBER(A)

*L. J. S.*

VICE CHAIRMAN

Dated: 6.10.2001

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