

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION No.110/1996

TUESDAY, THIS THE 4TH DAY OF JUNE, 2002

HON'BLE MR. JUSTICE R.R.K. TRIVEDI .. VICE CHAIRMAN

HON'BLE MR. C.S. CHADHA .. MEMBER (A)

Prem Prakash Gupta,
aged about 55 years,
S/o late C.S. Gupta,
R/o 120/812, Lajpat Nagar, Kanpur,
presently employed as Family Welfare
Extension Educator, Family Welfare Centre,
Ordnance Hospital, Armapore, Kanpur,
Ordnance Factory, Kalpi Road,
Kanpur. ... Applicant

(By Advocate Shri M.K. Upadhyaya)

Versus

1. Union of India, through
the Secretary,
Ministry of Defence,
Department of Defence Production,
Government of India, New Delhi.
2. Chairman,
Ordnance Factory Board/
Director General of Ordnance Factories,
10-A, Auckland Road, Calcutta.
3. General Manager,
Ordnance Factory, Kanpur.
4. Shri A.K. Maurya,
Works Manager,
Ordnance Factory, Kanpur.
5. Shri A.K. Rastogi,
Presently working as General Manager,
Ordnance Factory,
Jabalpore. ... Respondents

(By Advocate Shri A. Mhiley)

ORDER - (ORAL)

Hon'ble Mr. Justice R.R.K. Trivedi, Vice Chairman:

By this O.A., the applicant has challenged the
order dated 20.7.1994, by which the Disciplinary Authority



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awarded punishment to the applicant by depriving him of 2 increments and reducing his salary from Rs.2,300/- to Rs.2,250/- for a period of one year without cumulative effect on conclusion of the disciplinary proceedings.

2. The charge against the applicant was that while he was serving as Family Welfare Extension Educator (FWEE for short), in Ordnance Factory, on 10.12.1993, at about 8.30 a.m., he vaccinated baby A.K. Maurya for DPT instead of Measles, without consulting the Baby card though the father of the child intimated about the type of vaccination required and also presented the baby card. The applicant was served with a memo of charge dated 12.2.1994 (Annexure-A6) under Rule 16 of C.C.S.(CCA) Rules, 1965. The applicant submitted his reply. As the explanation was not found satisfactory, the punishment as stated above was awarded^{punishment}. The order of the Disciplinary Authority was maintained in the appeal and the appeal was dismissed by order dated 22.8.1995, which has also been challenged.

3. The learned counsel for the applicant has submitted that before serving the memo of charge dated 12.2.1994, the applicant was served with a show cause notice dated 2.12.1993 by Principal Medical Officer, Ordnance Hospital, Kanpur. The applicant submitted his reply and explained the circumstances under which the vaccination of DPT was given instead of Measles. On this explanation, the applicant was administered warning by order dated 31.12.1993, by the Principal Medical Officer. It is submitted that as the action was already taken



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against the applicant and punishment was awarded, the service of memorandum of charge dated 12.2.1994, was illegal and violative of Article 20(2) of the Constitution of India, as the applicant was subjected to double jeopardy.

4. Shri A. Mohiley, on the other hand submitted that there is no question of any double jeopardy as 'warning' is not a punishment provided under C.C.S(CCA) Rules, The order was not passed by the Disciplinary Authority, ^{but} ~~by~~, only by a senior doctor under whom the applicant was serving.

5. We have considered the submissions of the counsel for the parties and in our opinion, the order dated 31.12.1993, could not be taken to be a disciplinary action against the applicant for the negligence he had shown in giving wrong vaccination without consulting baby card. The disciplinary action could be taken only under the provisions of C.C.S.(CCA) Rules, 1965, which provide for explicit punishment. The warning is not provided as a punishment in the Rules. In the circumstances, the submission of counsel for the applicant cannot be accepted.

6. The 2nd submission of the counsel for the applicant is that the order of the Disciplinary Authority is a non-speaking order and is liable to be quashed. We have perused the order dated 20.7.1994 (Annexure-A1) and 22.8.1995 (Annexure-A2). The Disciplinary Authority has mentioned the charge against the applicant. Then, he states that he has considered the written statement of defence of the applicant



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and other evidence on record and has found him guilty.

It is worth noticing here that the proceedings were for minor punishment and elaborate proceeding as required under the Inquiry (General) Rules 14 of the Rules, was not called for in the present proceedings. The Appellate order dated 22.8.1995 is a detailed order and as the Appellate Authority has considered all the material aspects of the case, we do not find that any kind of prejudice has been caused to the applicant.

7. The 3rd submission is that the applicant claimed a full fledged inquiry under Rule 14, which has not been allowed and the applicant has been punished.

8. We have seriously considered this aspect of the case. However, in our opinion, no inquiry was required. The applicant, in his reply dated 29.12.1993 (Annexure-A4) has clearly admitted his mis-conduct which may be reproduced below:

".....in the case of Shri A.K. Maurya WM/OFC, it is stated that considering that Shri A.K. Maurya is a responsible and learned officer of our Factory, the child was vaccinated as per his request without insisting on BABY CARD. I feel very sorry and assure you, Sir, that this type of incidence will not happen in future.

Submitted for sympathetic consideration and favourable action please."

9. From the aforesaid explanation given by the applicant in response to the show cause notice dated 27.12.1993, it is clear that the applicant was fully aware of the charge, he admitted his mis-conduct and the prayer for detailed inquiry was only an effort to avoid punishment which he was apprehending in the present proceedings. The claim could

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not be termed bonafide and the respondents were justified in not granting this liberty.

10. Considering the facts and circumstances of the case and the seriousness of the mis-conduct, in our opinion, the punishment awarded is commensurate and does not call for our interference. The O.A. has no merit and is dismissed. No order as to costs.



MEMBER (A)



VICE CHAIRMAN

psp.