

(Open Court)

(1) 18

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 31st day of July, 2003.

Original Application No. 451 of 1997.

Hon'ble Mr. Justice R.R.K. Trivedi, Vice-Chairman.
Hon'ble Mr. D.R. Tiwari, Member- A.

Bhusi Ram, Ex. L.D.C/EM, Ordnance Factory,
Kanpur. R/o Mini L.I.G- 290, Barra-5, Kanpur.

.....Applicant

Counsel for the applicant:- Sri Rakesh Verma

V E R S U S

1. Union of India through the Director General,
Ordnance Factories, 10-A, S.K. Basu Road, Calcutta.
2. The Senior General Manager,
Ordnance Factory, Kalpi Road, Kanpur.

.....Respondents

Counsel for the respondents :- Sri Amit Sthalekar

O R D E R (Oral)

By Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

By this O.A filed under section 19 of Administrative Tribunals Act, 1985, the applicant has challenged the order of punishment dated 06.09.1995 by which applicant was awarded punishment of compulsory retirement from service as L.D.C (E.M) from the date of the order of conclusion of the disciplinary proceedings. Against the order of disciplinary authority, applicant filed appeal which was dismissed by the appellate authority by order dated 10.01.1997 which has also been challenged.

2. After hearing counsel for the parties at length on 23.07.2003, we directed counsel for the respondents to produce the original records of the disciplinary proceedings

which may be perused for correct decision of the case.

3. The charges against the applicant was that he identified S/Sri K.K Verma, Munni Singh Yadav, Vishwa-Nath and Babu Ram who were paid the smaller amount but the ^{figures were} ~~figures~~ subsequently ^{were} ~~were~~ changed and this way the Government money to the tune of Rs. 24987/- was mis-appropriated. It was the allegation against the applicant that he ^{acted} ~~acted~~ in connivance with Sri K.L. Verma, Ex. Cashier, L.B Staff Sri Virendra Singh, Sri S.P. Srivastava, AAO and Sri Rajendra Prasad, Clerk in causing the aforesaid loss. The applicant denied the charges and contested the proceedings. The enquiry officer after enquiry, gave the opinion that charges against the applicant were proved. The disciplinary authority agreed with the report and passed the order of punishment as stated above.

4. Sri Rakesh Verma, learned counsel for the applicant has submitted that the defence of the applicant was that he has not signed the disputed bills on which basis the amount was defaulcated. It is stated that ^{the} ~~the~~ ^{his} ~~signature~~ was forged. In support of this plea he obtained the reports of the Hand Writing Expert dated 14.07.1995 and 23.07.1995 which were filed before the appellate authority but they have not been taken into account. It has also been submitted that the findings recorded by the enquiry officer are not supported by the documents on record particularly the disputed bills. Though it is stated that Sri Krishna Kumar Verma signed the bill, there is no mention about the amount received by him and no date has been written below the signature. In case of another bill of Sri Munni Singh, he has signed on 24.07.1989 but in the middle of the page he has signed with another dated i.e. 20.04.1989 and the amount received is 1000/- whereas the bill shows the amount of Rs. 6449/- and the case of the department was that he was paid only Rs. 449/- and the figure of Rs.6000/-



added subsequently. If the bill ^{is} ~~are~~ perused carefully, the story set-up by the department cannot be believed.

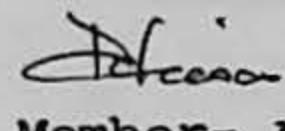
Sri Munni Singh in his own statement has clearly stated that he has not been paid the amount of Rs. 4000/-. The appellate authority has also not ~~been~~ mentioned any thing about these bills. Similarly signature of Sri Babu Ram is also mentioned in the bills without any date and amount. Sri Vishwanath has also only signed but has not mentioned any amount. The defence of the applicant was that the amounts of Rs. 540/-, 449/-, 556/- and 442/- were not due to S/Sri K.K Verma, Munni Singh Yadav, Babu Ram and Vishwanath. It is stated that their signatures had been obtained only to implicate the applicant.

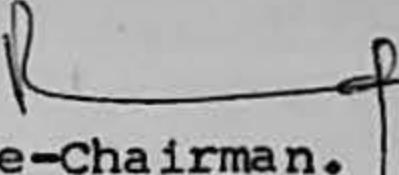
5. In our opinion, the defence of the applicant has not been appreciated in the light of the documents available on record. We have perused the original records. The representation submitted by the applicant has not been considered by the respondents in the light of the discrepancies mentioned therein. However, we are of the opinion that even if the report of the Hand Writting Expert was submitted little late before the appellate authority, the interest of justice required in this case that report should have been taken in-to consideration and, if necessary, the Hand Writing Expert should have been examined. This little exercise ^{could} ~~should~~ have been done even at the appellate stage. One very important aspect of the matter was that original bills were not examined at all by the enquiry officer and this material evidence was withheld by the department. In our opinion, without perusal of the original bills real story could not be ascertained. In the corgumstances, we feel that the matter may be remitted back to the appellate authority to re-consider the appeal and pass the fresh order in the light of observation made above ^{in the light of} and the explanation of the applicant.



6. For the reasons stated above this O.A is allowed ^{in part}.
The order of the appellate authority dated 10.01.1997
(Annexure- II) is quashed. The appeal of the applicant
shall stand revive and shall be considered and decided a
fresh in accordance with law and in the light of the
observations made above within a period of three months
from the date of communication of this order.

7. There will be no order as to costs.


Member- A.


Vice-Chairman.

/Anand/