

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 1st day of August 2003.

QUORUM : HON. MR. JUSTICE R. R. K. TRIVEDI, V. C.
HON. MR. D. R. TIWARI, A.M.

O. A. No. 1114 of 1997

K.K. Bajpai, aged about 52 years S/O Late Shri S. S. Bajpai,
T. No. 30/Estate, working as Labour, Ordnance Factory, Kanpur.
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..... Applicant.

Counsel for applicant : Sri R. Verma,

Versus

1. Union of India through the Secretary, Ministry of Defence,
New Delhi.
2. The Chairman & Director General of Ordnance Factories,
Ordnance Factory Board, 10-A, Auckland Road, Calcutta.
3. The General Manager, Ordnance Factory, Kanpur.

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..... Respondents.

Counsel for respondents : Sri A. Sthalekar.

O R D E R (ORAL)BY HON. MR. JUSTICE R. R. K. TRIVEDI, V. C.

By this O. A. filed under section 19 of A.T. Act, 1985, applicant has challenged the order dated 21.1.1997 passed by the Disciplinary Authority by which he awarded punishment to the applicant by reducing him to two incremental stages from Rs. 968/- to Rs. 940/- in the scale of Rs. 750/- to 940/- for a period of one year with cumulative effect. He further stated that he will not earn increment of pay during this period and the reduction will have effect of postponing his future increments of pay. The order was challenged in appeal and the appeal has been decided by the order dated 16.3.98 though the findings on the question of charge have been maintained but the punishment has been reduced to withholding of one increment with cumulative effect for one year.



2. The facts of the case are that the applicant on the relevant date i.e. 1.3.1995 was serving as Labour, unskilled in Armapore Estate, Ordnance Factory, Kanpur. He was served with a memo of charge dated 9.8.95 with the allegation that on 1.3.95 when he was detailed for duty in day shift at Armapore Ground in Armapore Estate, he left his place of duty unauthorisedly and found wasting Govt. time at about 11.30 AM at the tea stall near UCO Bank, Armapore Main Entrance Barrier. The second charge against the applicant was that on 1.3.95 at 11.30 AM applicant abused Shri V.N. Pandey, Darban with vulgar and unparliamentary language and also slapped him and created unruly/indisciplined scene at the public place. The applicant filed his reply and denied the charges. Enquiry Officer was appointed, who submitted his report on 9.8.1995 (Annexure A-10). The applicant submitted his explanation. The Enquiry Officer concluded that there is no evidence of slapping of Shri V.N. Pandey, Darban on 1.3.95 at 11.00 AM but it is established that applicant was present at Armapore Main Entrance, which was not his place of duty and there was unwarranted use of language by the applicant. The Disciplinary Authority agreed with the report of Enquiry Officer and passed order against the applicant. Learned counsel for applicant has submitted that applicant in his defence examined three witnesses including Shri G.S. Singh, who was the Section Incharge and under whom the applicant was working in the factory. The Enquiry Officer, however, has not stated a word for not accepting the statement of the Defence witnesses and merely on discussion all the witnesses of the department, he has given his conclusion. It is further submitted that the charges against the applicant was regarding incident at 11.30 AM but the Enquiry Officer has recorded finding that incident took place at 11.00 AM. There is a material difference of half an hour and that the Disciplinary Authority and Appellate

Authority have not applied their mind to this discrepancy. It is submitted that in fact no such incident had taken place. The applicant was all along present on duty and complaint was lodged against the applicant ~~for~~ ^{due to} ~~of~~ ^{by} annoyance ~~of~~ ^{by} Shri V. N. Pandey, Darban.

3. Learned counsel for applicant has placed reliance on the judgment of Hon'ble Supreme Court in case of Anil Kumar Vs. Presiding Officer & others 1985 SCC (L&S) 815. Learned counsel for respondents, on the other hand, submitted that the case of the department has been proved by the three witnesses namely V. N. Pandey, Ranjeet Singh and Lal Singh and the conclusion drawn by the Enquiry Officer is justified and does not call for any interference by this Tribunal.

4. We have carefully considered the submissions made by the counsel for parties. It is not disputed that applicant had examined three defence witnesses namely G. S. Singh, Baijnath Gupta and Shahid Ali. This fact is mentioned in the inquiry report. However, the Enquiry Officer has ignored the statement of the three defence witnesses without assigning any reason. The relevant part of the inquiry report dealing with the defence witnesses is being reproduced below :-

"Shri Bajpai, D.G.S. has produced three defence witnesses in support and has tried to establish and prove that Shri Bajpai did not leave his place of work i.e. Armapore Ground at about 1100 A.M. on that day of incident i.e. 1.3.95. But it appears to be fabricated because it is easier to go out of Armapore Ground which is very large in area and has many outlets."

5. From the aforesaid it is clear that there is no mention of the statement of witnesses including that of Shri G. S. Singh, who was Section Officer and under whose supervision and control, applicant was working in the factory. The Enquiry Officer has also not mentioned anything about two witnesses. He has ^{given} ~~only~~ reason ^{given} ~~stated~~ that the ground is big and there are many outlets. The Appellate Authority and the Disciplinary Authority have also not stated a word about the

defence witnesses. The defence evidence could not be legally ignored in this manner, ^{by} Enquiry Officer as well as the Disciplinary Authority and Appellate Authority, who are under obligation ~~not~~ ^{to assign} the reasons for not accepting the statement of the witnesses. The sole reason assigned about the large area of the ground, in our opinion, was not sufficient to dislodge the evidence of the witnesses. Hon'ble Supreme Court in case of Anil Kumar (Supra), mentioned above, has held in paragraph 5 as under :-

".....The enquiry officer did not apply his mind to the evidence. Save setting out the names of the witnesses, he did not discuss the evidence. He merely recorded his ipse dixit that the charges are proved. He did not assign a single reason why the evidence produced by the appellant did not appeal to him or was considered not creditworthy. He did not permit a peep into his mind as to why the evidence produced by the management appealed to him in preference to the evidence produced by the appellant. An enquiry report in a quasi-judicial enquiry must show the reasons for the conclusion. It cannot be an ipse dixit of the enquiry officer. It has to be a speaking order in the sense that the conclusion is supported by reasons....."

6. In our opinion, the present case is squarely covered by the observations made by Hon'ble Supreme Court. The defence witnesses examined by the applicant have not been considered either by the Enquiry Officer or by the Disciplinary Authority or Appellate Authority. In the circumstances the effect is that applicant has been denied the defence and the orders cannot be sustained. We could have remitted the matter back for fresh enquiry but considering the nature of the charge and the delay involved, in our opinion, matter may be closed.

7. For the reasons stated, above, the impugned orders dated 21.1.1997 passed by Disciplinary Authority and order dated 16.3.1998 passed by the Appellate Authority



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are quashed. The amount which has been deducted from the applicant on the basis of impugned orders, shall be paid back to him within three months from the date a copy of the order is filed.

There shall be no order as to costs.

A. M.

A. M.

R. P.

V. C.

Asthana/