

(RESERVED)

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD.**

Allahabad this the 11th Day of November, 2005

Original Application No. 63 of 1998

Hon'ble Mr. A.K. Bhatnagar, Member- J.  
Hon'ble Mr. S.C. Chaube, Member- A.

Mohammad Zaheer S/o of Late Vilayat Ali,  
R/o House No. 116/360, 120 Fit Road,  
Rawatpur Gaon, Bakar Mandi, Kanpur Nagar.

.....Applicant

Counsel for the applicant : - Sri R.C. Upadhyay

**V E R S U S**

1. Union of India through Secretary, M/o Defence,  
New Delhi.

2. Senior General Manager, Ordnance Factory,  
Kalpi Road, Kanpur Nagar.

.....Respondents

Counsel for the respondents : - Sri Amit Sthalekar

**O R D E R**

**BY HON'BLE MR. S.C. CHAUBE, A.M.**

The applicant while functioning as Mechanist (Skilled) was charged with gross misconduct in that he received payment of Rs. 1785.65, Rs. 3478/- and Rs. 2750/- against SAR No. 183 dated 13.02.1988, 283 dated 22.04.1988 and 928 dated 19.08.1988 respectively whereas the aforesaid amounts were not at all due to

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him. The departmental inquiry under rule 14 of the CCS (CCA) Rules, 1965 was conducted against him wherein charges leveled against him were found proved and he was inflicted the penalty of compulsory retirement from service vide Senior General Manager, Ordnance Factory, Kanpur order dated 17.08.1995. Aggrieved by the aforesaid order the applicant filed appeal against the order of compulsory retirement, which was dismissed by the Appellate Authority vide order dated 13.01.1997. Accordingly the applicant has impugned both the above mentioned orders through this O.A.

2. It has been contended by the applicant that as per enquiry proceedings dated 02.07.1993 and 03.09.1993 all the SAR provided by the factory were in duplicate and no original SAR was produced despite repeated request of the applicant during enquiry proceedings. Thus the act of non-production of original SAR created suspension about the whole enquiry proceedings. Further the applicant never applied for preparation of any of SAR for payment to be made in his favour. It has further been submitted by the applicant that no pay slip is provided by the factory to show the arrear of payment made to the employee concerned and this creates real difficulty in ascertaining the exact amount of payment of arrears received by the employee. According to the applicant, he received some of the amount in connection with the aforesaid SAR treating them as payment of arrears due

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in his favour. Due to non-production of original SAR, the enquiry officer relied upon only photocopies. Thus the ends of justice have suffered as claimed by the applicant. Further the Sr. General Manager, according to the applicant, is not appointing authority of the applicant hence the award of major penalty of compulsory retirement by the Sr. General Manager is without jurisdiction. Thus the orders dated 17.08.1995 and 13.01.1997 are not sustainable in law and, therefore, liable to be quashed and lastly the punishment awarded is not commensurate with the guilt of the applicant.

3. The respondents on the other hand have justified the non-production of Sri A.K. Nayar, Works Manager and Sri R.S. Shabnam, the then Assistant Works Manager as they were in no way associated in the payment in case of the applicant. They have further stated that the copies of SAR on which payments are made and the claimants put their signature or thumb impression as token receipt are treated as original copy. They have clarified that Xerox copy of these SARs were enclosed as listed documents in the memorandum of charge-sheet. As regards the applicant having not applied for the claim reflected in SARs in question, the respondents have stated that the applicant should not have drawn the payment. The respondents have further stated that prior to the issue of charge sheet dated 29.06.1992, the applicant only intimated that any

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wrong payment received by him may be recovered from him. Thus the involvement of the applicant in claiming fraudulent payment cannot be denied.

4. According to the respondents, by virtue of the powers vested to the Sr. Deputy G.M as competent authority as also the disciplinary authority, he is fully competent to impose any of the penalties on Group 'C' and 'D' employees up to the grade of Charge man Gr. II. Thus the order of penalty passed by the Sr. Deputy General Manager, Ordnance Factory, Kanpur imposing the penalty of compulsory retirement on the applicant w.e.f. 17.08.1995 is, therefore, fully justified and sustainable in law. The respondents have also stated that the disciplinary authority has already taken a lenient view and has awarded the penalty of compulsory retirement from service. Lastly, the penalty imposed by the disciplinary authority has been upheld by the Appellate Authority stating it as justified and commensurate with gravity of misconduct. Therefore, according to the respondents, the present O.A is devoid of merits and is liable to be dismissed.

5. We have heard the counsel for the parties and perused the pleadings on record.

6. In the peculiar facts and circumstances of the case, the applicant has not been able to clearly establish the violation of statutory rules of procedure for conducting the departmental proceeding.

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His contention that the then Works Manager and Assistant Works Manager were not summoned by the Inquiry Officer as defence witnesses has been effectively countered by the respondents. According to the respondents, both the officers were in no way involved in the release of ~~amount~~ <sup>amount</sup> of fraudulent payment received by the applicant. Similarly the applicant has not been able to establish any malafide ~~or irregularity~~ <sup>or irregularity</sup> either on the part of the Disciplinary Authority or Appellate Authority in passing the impugned orders.

7. It is well settled that the court in exercise of power of judicial review is not concerned with the correctness of the findings of fact on the basis of which the orders are made so long as those findings are reasonably supported by evidence and have been arrived at through proceedings which cannot be faulted with for procedural illegalities or irregularities which vitiate the process by which the decision was arrived at. If the decision has been arrived at by the Administrative Authority after following the principles established by law and the rules of natural justice and the individual has received a fair treatment to meet the case against him, the court cannot substitute its judgment for that of the Administrative Authority on a matter which fell squarely within the sphere of jurisdiction of that authority, (Apparel Export Promotion Council Vs. A.K. Chopra, JT 1999(1) SC 61).

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8. For the aforesaid reasons and the case law cited above, the O.A, in our considered view, is devoid of merits and is, therefore, liable to be dismissed. We order accordingly with no order as to costs.

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MEMBER- A.

*J.*  
MEMBER- J.

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