

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.1580 OF 2001

ALLAHABAD THIS THE *3rd* DAY OF *Oct* 2007

HON'BLE MR. ASHOK S. KARAMADI, MEMBER-J
HON'BLE MR. K. S. MENON, MEMBER-A

Ahmad Husain S/O Anwar Hussain,
Tailor (Skilled) F.S. no.256/G-12/124
Ordinance equipment Factory Hazratpur
Firozabad, r/o Mohalla Tarin Tikli Nai Colony,
P.O. Usman Bagh, District-Shahjahanpur.

.Applicant

By Advocate : Sri M. K. Nigam

Versus

1. Additional Director General Ordnance Factory
Appellate Authority Government of India,
Ministry of Defence Directorate General,
Ordnance Factory, Ordnance Equipment Factory Gr.
Head Quarters G.T. Road, Kanpur.
2. General Manager Ordnance Equipment Factory,
Hazratpur, Firozabad.
3. Union of India through Secretary Defence,
New Delhi.

.Respondents

By Advocate : Sri V. K. Pandey

O R D E R

HON'BLE MR. ASHOK S. KARAMADI, MEMBER-J

This Original Application has been filed for
quashing of the order dated 01.12.2000 passed by the
respondent no.2 and the order dated 28.03.2001 passed
by respondent no.1, and for reinstatement with back
wages.



2. The brief facts of the case are that the applicant was working as a Tailor in the Ordinance Equipment Factory Hazratpur. By the memorandum dated 21.01.2000 the charges were leveled against the applicant, and the Enquiry Officer was appointed to enquire into the charges against the applicant. The applicant participated into the enquiry and was represented by Defence Assistant. On 10.10.00 the applicant was not appeared before the Enquiry Officer, though his defence assistant was present who requested for adjournment for two days on the ground that the applicant was ill and has applied for medical leave and request for postponement for two days, the Enquiry Officer proceeded with the enquiry and submitted the report against the applicant. The Enquiry report was served to the applicant by the letter dated 20.10.2000 and directed to submit his representation within fifteen days from the receipt. The applicant fell ill on 15.10.2000, and as such he applied for leave on medical advises and could not submit his representation against the enquiry report. The applicant has received another letter dated 03.11.2000 as the applicant is absent since 16.10.2000 and directed to send his medical certificate immediately to the factory failing which disciplinary action will be taken. On the receipt of the said letter he informed the manager that he has sent his information about his illness along with medical certificate to the factory by the letter dated 17.10.2000 under certificate of posting. Inspite of the applicant ill



health was unable to attend the duty and submit the reply, has resulted in passing the order by the authority removing the applicant from service w.e.f. 01.12.2000. Aggrieved by the order dated 01.12.2000 the applicant preferred appeal, the said appeal was rejected by the order dated 28.03.2001 by the respondent no.1, the applicant being aggrieved by the order of dismissal of the appeal this OA is filed.

3. On notice the respondents have filed the counter affidavit and stated that the disciplinary actions were taken against the applicant based on the enquiry report the punishment was awarded for the charge of unauthorized absence from duty in the past against the applicant which are stated in para 8 are as follows:-

"1.Stoppage of one increment for a period of one year without cumulative effect vide order dated 29.09.1996.

2.Stoppage of one increment for a period of one year with cumulative effect vide order dated 18.12.1996.

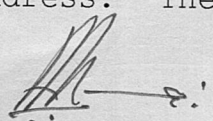
3.Withholding of one increment for a period of two years with cumulative effect vide order dated 19.09.1997.

4.Reduction of pay to the minimum of pay in the pay scale of Rs.3050-4590 for a period of two years vide order dated 01.05.1998.

5.Reduction of pay to minimum of the pay in the pay scale of Rs.3050-4590 for a period of two years vide order dated 10.02.2000.

6.Reduction of pay to minimum of the pay in the pay scale of Rs.3050-4590 for a period of three years vide order dated 09.08.2000."

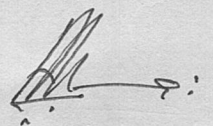
It is further stated that for the unauthorized absence from 09.11.1999 to 14.12.1999 the charge sheet was issued to the applicant on his permanent address. The



applicant did not submit any reply or representation against the charge sheet, and thereafter the enquiry proceedings are started against the charges framed by appointing the Enquiry Officer, who after enquiry submitted his report on 16.12.2000 and held that the charges leveled against the applicant have been fully proved, on the basis of the records, facts and circumstances of the case the disciplinary authority imposed the penalty of removal from service by his order dated 01.12.2000. The enquiry conducted by affording full opportunity to the applicant to defend his case, as he has attended the enquiry along with the defence assistant could not produce any documentary proof about his absence, and thereafter he has not attended further proceedings of the enquiry inspite of the opportunity given to the applicant but he was failed to avail the opportunity given to him, thus resulted in completing the enquiry proceedings in the absence of the applicant and in view of these reasons sought for the dismissal of the OA.

4. We have heard the learned counsel for the parties and perused the pleadings and the materials on record.

5. The learned counsel for the applicant submits that the enquiry conducted and the findings recorded by the disciplinary authority are erroneous, as the same was done ex-parte without adjourning the matter on 10.10.2000 inspite of the fact that the applicant



sends second medical opinion proceeded in the matter, which is against the principles of natural justice. On perusal of the enquiry report it is seen that the findings are recorded by the Enquiry Officer after giving full opportunity to the applicant to present his case, the applicant has requested many times to the Enquiry Officer for grant of time personally, on some other occasions by his Defence Assistant. The enquiry officer has acceded to the request of the applicant and the Defence Assistant and granted time to put forth the case by the applicant, ultimately given the findings that the charges are proved. The relevant portion of the enquiry report is as follows:-

"It is evident from the proceedings that AGS is not serious enough to attend court of Inquiry and plead his case. Even after receipt of information for hearing on 2.5 and 22.5.2000, he did not attend the court of Inquiry.

On 02.06.2000 after joining his duty, when he was called by I. O. than only he came forward to attend court of Inquiry. Since than repeatedly he was asking more and more time to bring DA. Thus enquiry was postponed 10 times in search of his DA only. Than he informed on 14.08.2000 that Shri Mahabir Prasad Tailor HS-II will plead his case as D. A. but after attending proceedings on 14.08.2000 A.N. at 3.00 P.m. He did not attend further proceedings of court of inquiry on 21.08., 28.8., 11.9. and 10.10.2000. Whereas record is available that he received the information for proceedings of 10.10.2000 and hearing date 21.8.2000 was decided as further date of hearing in his presence only. This clearly indicates that he wanted to avoid court of inquiry, which also fantamounts that he is not having anything to pay in his support against the charges levied through charge sheet.


DA also could not say anything in support of AGS against the charges levied through Memorandum OEFH/2301/VIG/AH(iii) dated 21.1.2000, during last hearing on 10.10.2000.

Hence charges levied in the memorandum no.OEFH/2301/VIG/AH(iii) dated 21.1.2000 are established beyond any doubt.



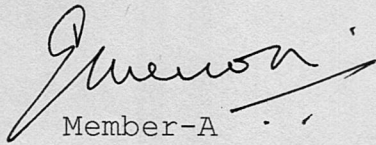
Apart from above charges, AGS is found guilty of misleading and unnecessarily prolonging court of Inquiry for no valid reason."

Having regard to the aforesaid reasons given by the enquiry officer and the decision taken by the disciplinary authority against the applicant, we do not find any grounds to interfere in the decision taken by the Disciplinary Authority, as the same was based on the materials on record, and by the application of mind by the disciplinary authority having regard to the facts and circumstances of the case and the charges leveled against the applicant, and further in view of the fact that the applicant has not shown any improvement in behavior and conduct of himself to remove the stigma attached to him as the habitual person of indiscipline, remaining unauthorizedly absent inspite of action taken in the past after affording him sufficient opportunity to improve his conduct has failed to do so. The Appellate Authority has also considered the case of the applicant, on taking into consideration of the fact and circumstances of the case and the grounds urged by the applicant in the memorandum of appeal, has come to the conclusion that the enquiry conducted and the findings recorded against the applicant cannot call for any interference and accordingly rejected the appeal. On perusal of the appellate order also we do not find any justifiable grounds to interfere against the same, and accordingly accepting the contention



raised by the respondent in the counter affidavit, we have rejected the contention of the applicants.

6. In view of the foregoing reasons, this OA is dismissed. No costs.


Member-A


Member-J

/ns/