

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1629 of 2001

Allahabad this the 04th day of April, 2002

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.
Hon'ble Mr. C.S. Chadha, Member (A)

O.P. Pandey, aged about 43 years, Son of Late R.B. Pandey, Care of Ms. Manju Gupta, 120/311, Lajpat Nagar Kanpur Nagar, employed as Chargeman Grade III, Field Gun Factory, Kalpi Road, Kanpur.

Applicant

By Advocate Shri M.K. Upadhyay

Versus

1. Union of India through the Secretary, Ministry of Defence, Department of Defence Production, Government of India, New Delhi.
2. The Chairman, Ordnance Factory Board/Director General of Ordnance Factories, 10-A, Shaheed Khudi Ram Bose Road, Kolkata.
3. General Manager, Field Gun Factory, Kalpi Road, Kanpur.
4. Shri K.L. Sapra, presently holding the post of General Manager, Field Gun Factory, Kalpi Road, Kanpur.

Respondents

By Advocate Shri P. Krishna

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 the Administrative Tribunals Act, 1985, the applicant

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[Signature]

has prayed for a direction to the respondents to change the disciplinary authority of the applicant namely Shri K.L. Sapra-respondent no.4 General Manager, Field Gun Factory, Kanpur. Before filing this O.A. the applicant approached this Tribunal by filing O.A.No.110/2001 for the same prayer. The O.A. was, however, disposed of finally by an order dated 08.02.01(annexure-18). The operative part of the order was;

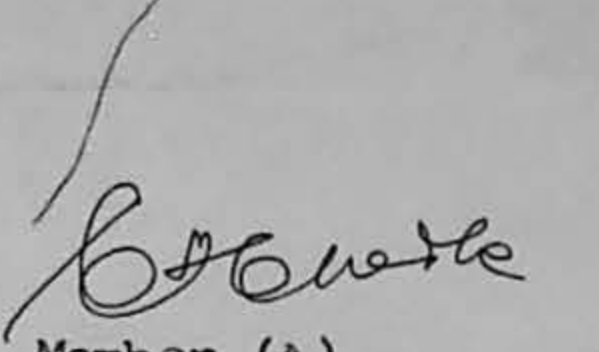
"This O.A. is accordingly disposed of finally with the direction to the respondent no.2 to decide the representation of the applicant by a reasoned order within two weeks from the date a copy of this order is filed before him. In order to avoid delay, it shall be open to the applicant to file a fresh copy of the representation alongwith the copy of this order before respondent no.2. Till the representation is decided though the Disciplinary proceedings shall be continued the final orders shall not be passed."


2. Before filing the aforesaid O.A., the applicant had already filed a representation on 31.05.00 before the Chairman, Ordnance Factory Board for change of the disciplinary authority. Alongwith copy of the order, the applicant filed another representation (annexure-19) dated 05.03.01. The respondent no.2-Chairman, Ordnance Factory Board decided the representation of the applicant dated 31.05.00 by order dated 05.03.01, copy of which has been filed as annexure-1. The order is detailed one. The respondent no.2 has taken into consideration

all aspects of the case and then has rejected the representation. At this -stage no positive finding can be recorded on the allegation of the applicant, which may amount to holding a pre-trial of the defence of the applicant before conclusion of the departmental proceedings. The respondent no.2 thus has rightly considered the ^{feasibility} ~~possibility~~ of the prayer of the applicant whether in the circumstances the disciplinary authority is required to change or not. We do not find any illegality in the order. The representation dated 05.03.01 has been rejected by a short order dated 27.07.01 (annexure-2) stating that the representation of the applicant had already been rejected on 05.03.01^{u u}.

3. Learned counsel for the applicant has submitted that the applicant has submitted a representation on 05.03.2001^u and on the same date the order impugned (annexure-1) was passed. There appears no illegality or any kind of doubt that order dated 05.03.2001^u was passed on the representation 31.05.00^u. The applicant took his own time to file a representation though order was passed by this Tribunal on 08.02.01. The liberty to file fresh copy of representation was given to avoid delay but the applicant misused the same and file a fresh representation on 05.03.01, almost he took a month in filing the copy of the order. The disciplinary proceedings were initiated by serving memo of charge dated 27.11.1999 and 2 years have already passed.

4. Considering the facts and circumstances, we do not find any good ground to interfere with the order passed by the respondent no.2. The O.A. has no merit and is accordingly dismissed. No order as to costs.


Member (A)


Vice Chairman

/M.M./