

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

ORIGINAL APPLICATION NUMBER 914 OF 2001

WEDNESDAY, THIS THE 07th DAY OF MAY, 2003

HON'BLE MRS. MEERA CHHIBBER, MEMBER(J)

K.K. Gupta son of Late Dwarika Prasad Gupta,
(Black Smith) T.No.185/SY, P.No. 100483 (Retd.),
Ordnance Equipment Factory, Kanpur
r/o 151 Phethfurganj,
District-Kanpur Nagar

.....Applicant

(By Advocate : Shri N.K. Sharma)

V E R S U S

1. Union of India through Secretary,
Ministry of Defence, Department of Defence,
Production, Government of India,
New Delhi.
2. The General Manager, Ordnance Equipment Factory,
Kanpur.
3. The Chief Controller of Accounts (Factories)
Ordnance Factory Board, 10-A Auckland Road,
Kolkata.

....Respondents

(By Advocate : Shri Ashish Gopal)

O R D E R

By this O.A. applicant has sought the following

reliefs:-

- (a) Issue an order or direction commanding the respondents to make payment of salary and substance allowance for the period of punishment.
- (b) Issue an order or direction directing the respondents to decide the appeal of the applicant pending before him and remove the punishment order.
- (c) Issue any other order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case."

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2. The brief facts of the case are that applicant was suspended vide order dated 30.08.1999 (Annexure-I). He was served with a chargesheet under Rule 14 of the CCS (CCA) Rules 1965 on the charge of Alchohal Intoxication during duty hours; consuming alchohal while on duty and whiling away duty hours. On 27.08.1999 at about 11.00 A.M. he was found unconscious under influence of alcohol inside the foundry shop of the Smithy Section. After the Inquiry the charges were found to be proved against applicant. Therefore, copy of the report was given to the applicant who gave his representation on 27.05.2000 which was duly considered by the disciplinary authority and vide order dated 17.05.2000, taking a lenient view, ~~as~~ ^{to} the applicant, he was retired on 31.12.2000, Accordingly, re-spondents have decided to impose the penalty of reduction of pay by two stages for the remaining number of days up to his retirement with cumulative effect w.e.f. 15.05.2000 to 31.12.2000 i.e from the date of revocation of suspension w.e.f. 15.05.2000. It was also held that he will not earn annual increment of his pay during the period of his penalty. Subsequently he was given a show cause notice and vide order dated 16.08.2000 the disciplinary authority felt that the suspension was justified as he has not been exonerated of the charges levelled against him and a major penalty has been imposed ^{upon} him. Therefore, the period from 30.08.1999 to 15.05.2000 during which applicant was placed under suspension, shall not be treated as period spent duty for any purpose and his pay and allowances for the above mentioned



mentioned suspension period, over and above the subsistence allowance paid to him during the suspension period, shall stand forfeited as per Article 193 CSR (Pg.36).

3. Being aggrieved applicant filed an appeal to the higher authority which was rejected vide order dated 09.11.2000 by saying that the penalty is appropriate as per the facts and evidence on record and there is no ground to interfere with the penalty imposed by the disciplinary authority (Pg.38). Being aggrieved applicant filed a mercy appeal to the Secretary (Defence Production & Supplier) Ministry of Defence, New Delhi (Pg.42) but the same has not been decided till date.

4. I have heard both the counsel and perused the pleadings as well.

5. The only contention made by the applicant's counsel was that no test was held in the Hospital to prove that the applicant had consumed Alcohol. Therefore, the charges could not have been proved against him nor he could ~~not~~ have been given the penalty for unproved alleged misconduct. He has not pointed out any irregularity in the inquiry nor has he taken ^{any} another legal ground to challenge the order passed by the disciplinary as well as appellate authority.

6. It is well settled now that Tribunal can not re-appreciate the evidence in a disciplinary case and once the charge is found to be proved, it should be left to the



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authorities to decide what penalty would be in the ends of justice and court should interfere only if it is found that the punishment is absolutely disproportionate to the remedy of misconduct alleged. In the instant case, charges against the applicant was that he was found to be intoxicated in the duty hours and so much so that he had become unconscious which is a very serious thing and once the charges were proved in the inquiry, definitely, I cannot say that I am shocked by the punishment which has been awarded to the applicant. In fact the disciplinary authority has already recorded that *it calls for* this kind of misconduct ~~are~~ for a more severe punishment but looking at the fact that applicant was due to retire shortly, he had himself reduced the penalty. The period of suspension has been decided as not spent on duty because the charges have been proved against applicant and he has been awarded a major penalty.

7. I do not find any good ground to interfere in this case nor I find any illegality in the orders passed by the respondents. The O.A. is therefore, dismissed with no order as to costs.


Member (J)

shukla/-