

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Original Application No. 1031 of 2001

Allahabad this the 10<sup>th</sup> day of October, 2003

Hon'ble Mr.A.K. Bhatnagar, Member (J)

Mohd.Habib, C.M.D. P.No.070284/S.I., Ordnance  
Equipment Factory, Kanpur.

Applicant

By Advocate Shri S.N. Dubey

Versus

1. Union of India through the Directorate General Ordnance Factories, Government of India, Ministry of Defence, Ordnance Equipment Factories, Gr.Hqrs. G.T. Road, Kanpur-13.
2. Additional Director General Ordnance Factories, Government of India, Ministry of Defence, Ordnance Equipment Factories, Gr.Hqrs., G.T. Road, Kanpur-13.
3. General Manager, Ordnance Equipment Factories, Kanpur-13.

Respondents

By Advocate Shri R.C. Joshi.

ORDER ( Oral )

This O.A. has been filed under Section 19 of the Administrative Tribunals Act, 1985 by the applicant seeking following reliefs:-

"(i) To quash the order dated 19.02.2001 passed by the respondent no.2 and order dated 06.09.2000 passed by the respondent no.3 (annexures A-2 and A-1 respectively to Compilation No.1).

(ii) To direct the opposite parties/respondents to give all the benefits to the applicant, which he

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is entitled after quashing the orders dated 19.02.2001 and 06.09.2000.

(iii) That the Hon'ble Court may pass such other and further relief as may be deemed fit and proper in the circumstances of the case, and

(iv) To order forecosts to the applicant."

2. The facts, in short, are that the applicant was working as C.M.D. P.No.070284/S.I. He served the department with full satisfaction and unblemished service record. The applicant received a memorandum dated 12.04.2000 on 15.04.2000 by which he was charge-sheeted under Rule 16 of C.C.S.(C.C.A.)Rules, 1965 with the allegation that the applicant on 03.04.2000 at about 16.30 hours did not obey the instructions given by HOS/Store(Issue) to carry factory truck of the Ordnance Factory and has refused to perform the duty assigned to him by the concerned officer.

3. The applicant after receiving the memo dated 12.04.00, filed his reply on 12.05.2000 denying the charges levelled against him, which is annexed as annexure A-4. After considering the reply of the applicant, the respondent no.3 passed the order against the applicant imposing the penalty of reduction of pay by two stages with cumulative effect for a period of three years. The applicant preferred an appeal before the respondent no.2 for setting aside the punishment order dated 30.11.2000(annexure A-5). The appellate authority rejected the appeal of the applicant on 19.02.2001(annexure A-2). The applicant aggrieved by these orders, filed this O.A. with the prayer to quash the punishment and appellate orders.

4. Resisting the claim of the applicant, the respondents have filed their counter-reply.

5. Learned counsel for the applicant submitted that the applicant has not given any opportunity of hearing and respondents have also not hold any inquiry into the matter, which action of the respondents is against the principle of natural justice. It is stated that the respondent no.3 has passed the order without recording any finding. The disciplinary authority as well as appellate authority have not passed a reasoned order. The action of the respondents is arbitrary and not in accordance with law.

6. Learned counsel for the applicant placed reliance on the rulling of the Hon'ble Apex Court cited in A.I.R.1990 S.C. 1984 S.N. Mukherjee Vs. Union of India and laid emphasis on paras-38 and 39. Para-39 of the Judgment reads as under:-

"For the reasons aforesaid, it must be concluded that except in cases where the requirement has been dispensed with expressly or by necessary implication an administrative authority exercising judicial or quasi\_judicial function is required to record the reasons for its decision."

7. Learned counsel for the respondents contended that the applicant was issued with the charge-sheet dt. 12.04.2000 under Rule 16 of C.C.S(C.C.A.)Rules, 1965 for the misconduct of (i) negligence of duty(ii) lack of devotion to duty(iii)disobedience of orders of superior officers and (iv) misbehaving with the Head of Section. It is stated that the applicant was given proper

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opportunity of hearing to make a representation against the charge memo, which was filed by the applicant. The representation was duly considered by the concerned/competent authority. The disciplinary authority passed the order after taking into consideration the facts and circumstances of the case and documents available on record. The representation filed by the applicant was also considered. After considering all the charges levelled against the applicant which were found to be correct and enough for establishing the charges, the disciplinary authority imposed the minor penalty of reduction of pay by two stages for a period of three years without cumulative effect, by penalty order dated 06.09.2000.

8. The applicant preferred an appeal against the punishment order, which was duly considered and was rejected by the appellate authority through a detailed, speaking and reasoned order dated 19.02.2001. Learned counsel for the respondents further submitted that the inquiry is not mandatory under Rule 16 of C.C.S.(C.C.A.) Rules, 1965 for imposing minor penalty. Moreover, no specific request was made by the applicant asking for an inquiry. It is further submitted that there is no illegality in the orders, therefore, no interference is called for by this Hon'ble Tribunal.

9. It is finally submitted by the respondents counsel that the quantum of punishment is the sole discretion of the disciplinary authority and Courts can only interfere if at all the punishment is shockingly disproportionate to the charges proved.

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10. Learned counsel for the applicant filed R.A., reiterating the facts mentioned in the O.A.

11. I have heard the learned counsel for the parties and perused the record.

12. After perusal of the impugned order dated 06.09.2000 (annexure A-1), I find that the disciplinary authority after careful consideration of the applicant's case, documents on record and points raised in the representation filed by the applicant against the memo of charge, passed the punishment order. Thus, it cannot be said that opportunity to defend himself from the charges, was not given to the applicant. I have also gone through the representation filed by the applicant, in which applicant has nowhere requested for inquiry into the matter and for opportunity of personal hearing. The appellate order dated 19.02.2001 is also a reasoned order which was passed after due consideration of the points raised by the applicant in his appeal.

13. The law cited by the applicant is not helpful in the present matter as the facts of the case are different from the case cited by the applicant. The orders passed by the disciplinary as well as appellate authority are detailed and reasoned, which do not invite any interference by this Tribunal.

14. In view of the aforesaid discussions, I do not find any illegality in the orders passed by the disciplinary as well as appellate authority. The O.A. is accordingly dismissed as lacking merits. No order as to cost.