

**RESERVED**

**CENTRAL ADMINISTRATIVE TRIBUNAL**

**ALLAHABAD BENCH**

( THIS THE 6<sup>th</sup> DAY OF April 2011 )

Hon'ble Dr.K.B.S.Rajan, Member (J)

Hon'ble Mr.D.C.Lakha, Member (A)

Original Application No. 727 of 2004  
(U/S 19, Administrative Tribunal Act, 1985)

VK Gautam, aged about 37 years, S/o Late O.P. Gautam  
Resident-Village & Post Balti Kari, district Mathura.

.....Applicant

Present for Applicant: Shri O.P. Gupta, Advocate

**VERSUS**

1. Union of India through Secretary  
Ministry of Defence, Production and  
Supplies, South Block, New Delhi.
2. The Director General  
Quality Assurance Department  
Of Defence Production (DGQA), South Block, New  
Delhi,
3. The Director Quality Assurance (Armament)  
Department of Defence Production (DGQA)  
H Block, New Delhi.
4. The Senior Quality Assurance Officer,  
Senior Quality Assurance Establishment  
(Armament) Armapore post office,  
Kanpur.

.....Respondents

Present for Respondents: Shri S.N. Chatterjee, Advocate

## O R D E R

(Delivered by Hon'ble Dr. K.B.S. Rajan, Member (J))

The applicant was issued with a charge sheet, the article of charge and the statement of imputations of which are as under:-

### **STATEMENT OF ARTICLE OF CHARGE FRAMED AGAINST SH.VK GAUTAM, CM-II OF SQAE(A) KANPUR.**

#### **Annexure-I**

##### **Article-I**

Sh.VK Gautam, CM II, SQAE(A) Kanpur was found under the influence of alcohol in front of OFTI workshop at about 1600 hrs on 9.12.94.

By his above act, Sh.VK Gautam has violated Rule 22 (b) of CCS (Conduct) Rules 1964.

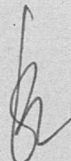
#### **Annexure II**

### **STATEMENT OF IMPUTATION OF MISCONDUCT OF MISBEHAVIOUR IN SUPPORT OF ARTICLE OF CHARGE FRAMED AGAINST SHRI VK GAUTAM, CM-II**

##### **Article-I**

Sh.VK Gautam, CM II was issued a duty gate pass at about 0900 hrs on 9.12.94 to shift his household goods from Panki area to DGQA complex, Kanpur Cantt. He was also put on OT from 1645 hrs to 1715 hrs that day. At about 1600 hrs that day, Sh.VK Gautam was found lying under the influence of alcohol in front of OFTI workshop by S/Shri Diwan Singh, T.No.127/NID-Jam Durawan/security, Raj Bahadur supervisor security and SC Malhotra, the then AF/OFTI (now Jr. Works Manager). On being informed on telephone by Maj.S.N.Mishra security officer, Ord. Fy., Sh.B.R.Kainth, SAO instructed Shri Ajai Kumar, AQAO to go to the spot. Shri Ajai Kumar went to the spot and Shri Gautam was medically examined in Ordinance Hospital by Dr. A.K. Roy. As per the medical report dated 9.12.94 Shri Gautam was under the influence of alcohol and unfit for duty and admitted for treatment.

By his above act, Shri Gautam has violated Rule 22 (b) of CCS (Conduct) Rules 1964.



2. The inquiry report conducted resulted in a finding by the inquiry officer that the charge remained proved. Some extract of the inquiry report is as under:-

7. On medical examination of Shri VK Gautam, Dr. AK Roy Senior Medical Officer of Ordinance Hospital Armapur found the following symptoms:-

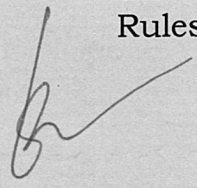
- (a) Eyes congested
- (b) Pupils slightly dilated
- (c) Disorientation
- (d) Ataxic gait
- (e) Speech slurred
- (f) Slight smell of Alcohol in breath.

42. Prosecution witness Dr. AK Roy, Senior Medical Officer who had examined Sh. VK Gautam confirmed that the individual was 'Under the influence of Alcohol' at the time he examined him and admitted him to Ordinance Hospital Armapur, Kanpur on 09 Dec 94 at 1700 hrs.

43. As per Maj SN Mishra, Security Officer's evidence the opinion of the Security staff who found Shri VK Gautam when he was found lying on the road side on 09 Dec 94 was that Shri VK Gautam appeared to be in a drunken state.

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On the basis of documentary and oral evidence adduced in the case before me and in view of the findings given above, I hold that the charge against Sh. VK Gautam, Chargeman Gde-II of SQAE (Armts), Kanpur of being "Under Influence of Alcohol" and the resultant charge of violation of Rule 22 (b) of CCS (Conduct) Rules 1964 established.



3. Though the applicant vehemently denied the charges and gave representation against the inquiry report, in the penultimate paragraph he had requested the authority as under:-

“However, I make a mercy appeal your honour to consider the case sympathetically and finalise it immediately so that I can be relieved to join Territorial Army Unit as a Volunteer for first embodiment of three months.”

4. The disciplinary authority has imposed the penalty of withholding of two increments with cumulative effect, vide order dated 01-10-1996 and the appellate authority upheld the same by rejecting the appeal, vide Annexure 2.

5. The applicant has come against the above orders on various grounds.

6. Respondents have contested the O.A. They have stated that the inquiry and other procedures have been duly conducted and the medical report clearly goes to show that the applicant was under the influence of intoxication and the charge remained proved. Thus, the penalty imposed was justified.

7. The applicant has filed the rejoinder affidavit reiterating his contentions as in the O.A.

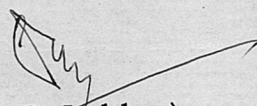
8. Counsel for the applicant argued that the inquiry conducted is not in accordance with the procedure.

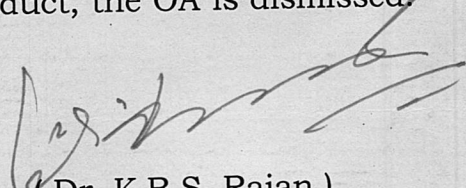
9. Counsel for the respondents, however, contended that the procedure prescribed had been religiously followed and the penalty is commensurate with the gravity of the misconduct.

10. Arguments were heard and documents perused. Perusal of the inquiry report reflects that the Inquiry Officer has acted in a balanced manner and analysed the contentions of both the side and arrived at a just finding. In fact, he has elaborately dealt with the defence case and could not find that the applicant could demolish the evidence of the prosecution. The disciplinary authority too had fully applied his mind and passed the penalty which is commensurate with the charge proved. Again, no legal flaw could be discerned from the comprehensive order of the appellate authority.

11. Thus, there being no legal lacuna in the decision making process and the quantum of penalty not shockingly disproportionate to the gravity of misconduct, the OA is dismissed.

No cost.

  
( D.C. Lakha )  
Member (A)

  
( Dr. K.B.S. Rajan )  
Member (J)

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