

Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH**

Original Application No. 307 of 2005

Friday, this the 28th day of August, 2009

Hon'ble Mr. Ashok S. Karamadi, Member (J)

J.K. Pathak aged about 57 years, Son of late K.P. Pathak, Resident of H.No. F-34, Dewan Kunj, 'D' Block, Shyam Nagar, KANPUR.

Applicant

By Advocate: Sri R.K. Shukla

Vs.

1. Union of India through the Secretary, Ministry of Defence, Deptt. Of Defence Production & Supplies, NEW DELHI-11.
2. The Secretary & Chairman (DGOF), Ordnance Factory Board, 10-A, Shaheed Khudi Ram Bose Road, KOLKATA-700 001.
3. The Dy. Director General/Disciplinary Authority, Ordnance Factory Board, 10-A, Shaheed Khudi Ram Bose Road, KOLKATA – 700 001.
4. The General Manager, Ordnance Factory, MURADNAGAR – 201 206.

Respondents

By Advocate: Sri S.C. Mishra

ORDER

By Hon'ble Mr. Ashok S. Karamadi, J.M.

Heard Sri R.K. Shukla, learned counsel for the applicant, even though the respondents are served and put their appearance but they have not chosen to file any Counter Affidavit in this O.A.

2. The facts of the case are that the respondents have issued a charge sheet against the applicant for his unauthorized absence



and hold an inquiry. After the inquiry was held the impugned order of punishment was passed imposing the penalty of reduction by the order dated 25.03.2004, produced as annexure A-1 to the O.A. The applicant being aggrieved by the aforesaid order, has preferred an Appeal to respondent No. 2. The Appellate Authority has affirmed the order passed by the Disciplinary Authority. Being aggrieved by the aforesaid orders, the applicant has filed the present O.A.

3. It is stated by the applicant's counsel that the Disciplinary as well as Appellate Authority has not considered the contentions of the applicant even though the applicant has brought to the notice of the Disciplinary Authority that the inquiry held by the Inquiry Officer is not in accordance with Rules 14 and 15 of CCS (CCA) Rules. The applicant further in the Appeal Memo has brought to the notice of the Appellate Authority regarding details of leave which he has applied and competent authority sanctioned the same. In spite of these materials before the Appellate Authority, it has passed the order without taking into consideration the grounds taken by the applicant in his Appeal.

4. On perusal of pleadings with regard to the contention taken by the applicant in the Appeal Memo dated 22.04.2004 and the Order passed by the Appellate Authority dated 04.01.2005, the Appellate Authority except saying the word that "I have perused the entire case and the appeal of the applicant, has not stated anything with regard to the contention taken by the applicant in his Appeal Memo, that being so, the Appellate Authority has not

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passed the order in accordance with law, taking into account the grounds taken by the applicant and this is nothing but a clear arbitrary action on the part of the Appellate Authority.

5. In view of the above, this O.A. is partly allowed. The order passed by the Appellate Authority dated 04.01.2005 is set aside, and the matter is remitted back to the Appellate Authority to decide the appeal dated 22.04.2005, preferred by the applicant, afresh within a period of two months from the date of receipt of a certified copy of this order. There shall be no order as to costs.



(**Ashok S. Karamadi**)
Member (J)

/M.M/