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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration O.A. No. 641 of 1986

Jiwan Singh ..... Applicant

Versus

Union of India & Others ..... Respondents.

Hon. D.S. Misra, A.M.

Hon. G.S. Sharma, J.M.

(By Hon. D.S. Misra, A.M.)

This is an application under Section 19 of the Administrative Tribunals Act XIII of 1985 praying for quashing the order dated 2.4.1985 passed by the Commandant, 510 Army Base Workshop Meerut Cantt, respondent No.4 imposing the penalty of removal from service.

2. The admitted facts of the case are that the applicant was employed as a permanent Black Smith in 510 Army Base Workshop Meerut Cantt since 1963. The applicant was served with a chargesheet dated 24.6.83 under Rule 14 of the Central Civil Services (CC&A) Rules, 1965. An enquiry was held into the charges levelled against the applicant and the Inquiry Officer submitted his report on 29.11.84. The respondent No.4 in his capacity as disciplinary authority agreed with the findings of the Inquiry Officer and finding the applicant guilty of the charges

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levelled against him imposed 'the penalty of removal from service, which shall not be a disqualification for future employment under the Government.'

3. We have heard the arguments of the learned counsel for the parties. The learned counsel for the applicant has challenged the impugned order on the following grounds :-

(i) There are serious irregularities in the conduct of the enquiry by the Inquiry Officer.

(ii) Respondent No.4 was not competent to pass the impugned order.

(iii) The penalty imposed on the applicant is excessive.

Regarding the first ground the contention of the applicant is that he was not allowed the assistance of a legal representative during the enquiry and thus the applicant was deprived of sufficient opportunity to defend himself. The respondents have denied this contention of the applicant by stating that the letter containing the chargesheet was served on the applicant on 28.6.83 giving him 10 days time to submit his reply. The applicant did not submit his reply to the chargesheet. The respondents had no option but to hold an enquiry. The applicant was given full opportunity to produce witnesses take assistance of defence assistant and produce any documents in his defence but the applicant merely denied the charges and took no other action to defend himself. We have examined the contentions of the parties. It would be relevant to refer to the

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substance of the charges levelled against the applicant. Article 1 of the charges stated that the said Shri Jiwan Singh absented himself without leave from Govt. duty from 3.5.83 to 10.6.83 and again from 14.6.83 onwards and also failed to submit leave application for his absence within the time limit stipulated in the Unit Standing Order as reproduced in Daily Order Part I No. 2973 dated 5.11.81 and submitted his leave applications for the said periods after availing the leave. Article 2 of the charge contains details of irregular attendance and disinterestedness in Govt. service during the period 1980 to May, 1983. The applicant was charged with the offence of gross misconduct - irregular attendance and disinterestedness in Govt. service violating Rule 3 of the Central Civil Services (Conduct) Rules, sheet 1964. The charge was sent to his residential address by registered A.D. post which he received on 28.6.83 but the applicant did not submit his written statement of defence. During the course of enquiry under Rule 14 of Central Civil Services (CC&A) Rules, 1965 the applicant pleaded not guilty to the charge. He was allowed to have the assistance of another Govt. servant under the provisions of Rule 14(8) of C.C.S.(CC&A) Rules, 1965 but he did not submit any evidence in his defence. The Inquiry Officer submitted his report which was accepted by the disciplinary authority which imposed the impugned order of penalty of removal from service. We have considered the matter and we are of the opinion that there is no irregularity in

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the conduct of enquiry by the Inquiry Officer and there is no merit in the allegation of the applicant that he was not given full opportunity to defend himself.

Regarding the second ground urged by the learned counsel for the applicant, the learned counsel for the respondents produced before us an order dated 1.9.79 issued on the signature of Shri N. N. Mohanta, Under Secretary to the Govt. of India, Ministry of Defence ~~issued~~ under the authority of the President of India conferring the power to impose various penalties specified in Sub Rule (i) to (ix) of Rule 11 of the Central Civil Services (CCS) Rules, 1965. According to this order Commandant/ Officer Commanding of respective Army Base Workshop are competent to impose all penalties on group 'C' & 'D' employees working under them. There is no dispute that the impugned penalty has been imposed by the Commandant of 510 Army Base Workshop, Meerut Cantt where the applicant was employed. In our opinion, respondent No.4 was thus competent to pass the impugned order.

Regarding the third ground it was urged by the learned counsel for the applicant that the disciplinary authority had taken into consideration the misconduct of the applicant during the previous period while imposing the penalty of removal from service and that this was excessive penalty if it is compared with the penalty imposed by respondent No.4 on several other delinquent officials. We have

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considered this contention of the applicant and we find that Article 2 of the Chargesheet contained specific instances of unauthorised absence of the applicant and the applicant had full opportunity to explain the alleged misconduct in his defence. If he failed to avail of this opportunity he has himself to blame. In any case, we would not like to interfere with the quantum of penalty imposed by the disciplinary authority who was in the best position to decide the quantum of punishment.

4. On the facts and circumstances of the case we find no merit in the application and dismiss the same without any order as to cost.

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Member (J)

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Member (A)

Dated the 4th Jan., 1989.

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