

CENTRAL ADMINISTRATIVE TRIBUNAL, ALIAHABAD BENCH.

....

Registration T.A. No. 942 of 1986  
( O.S. No. 202 of 1984 )

Ramesh Chandra

... ..

Plaintiff.  
Applicant.

Versus

Union of India, through the Secretary  
Ministry of Defence, Government of  
India, New Delhi

... ..

Defendant.  
Respondent.

Hon. Mr. Justice U.C. Srivastava, V.C.  
Hon'ble Mr. A.B. Gorthi, Member (A)

( By Hon. Mr. A.B. Gorthi, Member (A), V.C. )

The plaintiff who was appointed on the post of Labour Grade-B on 15.7.1963 in the Ordnance and Equipment Factory, Kanpur aggrieved by the order of removal from service dated 8.1.1983 filed a suit in the court of Munsif, Kanpur, which by operation of law has been transferred to this Tribunal.

2. The charge against the plaintiff was that he was absent from duty without leave <sup>from</sup> the date 9.1.1980 to 16.1.1982. The court of enquiry was ordered and during the enquiry, the plaintiff admitted that he was absent for the period mentioned in the particulars of the charge-memo. In his statement, however, he has explained the reasons for his absence. Initially he himself was sick and thereafter his wife also fell ill. His 10 years old daughter expired during the said period. Due to all these domestic problems, he could not <sup>attend</sup> the office during this period. He further accepted the facts that he was absent for the period 9.1.1980 to 16.1.1982, although it was stated that this was not done intentionally ~~by~~ him. The said statement was accepted as an unconditional plea of guilt <sup>by the</sup> enquiry officer <sup>who</sup> submitted his report to the disciplinary authority and the disciplinary authority

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passed an order of penalty ~~of~~ dismissing him from service. The appeal filed by the plaintiff before the Director General of Ordnance <sup>factories</sup> ~~Services~~ was also rejected. L

3. The defendant's version is that a proper enquiry was held and in which the plaintiff ~~was~~ pleaded guilty. Accordingly, the punishment awarded was just and proper.

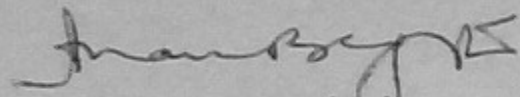
4. We have heard the learned counsel for ~~the~~ both the parties. The learned counsel for the plaintiff argued that the plaintiff was denied the assistance of an officer to defend him at the enquiry and that this amounted to denial of due opportunity to the plaintiff to put across his case during the enquiry. The defendant's contention is that since the plaintiff ~~has~~ admitted his guilt, there was no question of <sup>denying</sup> giving him <sup>opportunity to put across</sup> time to say something in his defence. L

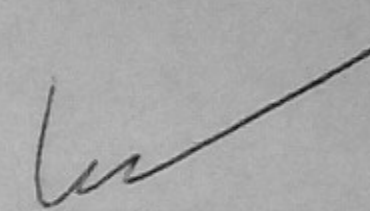
5. Notwithstanding the rival contentions, we find that the statement made by the plaintiff during the enquiry can-not amount to an unconditional plea of guilty. He had given a detailed explanation which contained the circumstances compelling him to remain absent. In view of this, it was imperative on the part of the defendant to hold ~~the~~ a proper enquiry by examining the witnesses and also by providing an officer to assist the plaintiff for the preparation of his defence and <sup>the defendant's failure</sup> failing to do so, amounts <sup>to</sup> the violation of the principle of natural justice and denial of due opportunity to the plaintiff to put across the defence. L

6. Accordingly, the penalty order imposed on the applicant and also the appellate order rejecting the appeal of the applicant deserves to be quashed. We order accordingly. It is open for the defendant, if he still



so desires to hold a proper enquiry under the C.C.S.(C.C.A.) Rules with regard to the charge memo. The plaintiff will not be entitled to pay and allowances for the period from the date of his dismissal and it will be further open to the defendant to treat the said period as 'dies-non' upto this date. The application is allowed <sup>in</sup> for the above terms without any order as to costs.

  
Member (A)

  
Vice-Chairman

Dated: 1.7.1992

(n.u.)