

THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH-ALLAHABAD.

(1) T.A. NO. 1083/86.

Mahd. Bismillah..... Applicant.

Versus

Union of India & others..... Respondents.

(2) T.A.No. 1084/86

Lalit Mohan Tripathi..... Applicant.

Union of India & others..... Respondents.

(3) T.A.No. 1061/86.

Raghunath Prasad..... Applicant.

Versus

The Union of India & others..... Respondents.

Hon'ble Mr. Justice U.C.Srivastava-V.C.

Hon'ble Mr. K. Obayya - A.M.

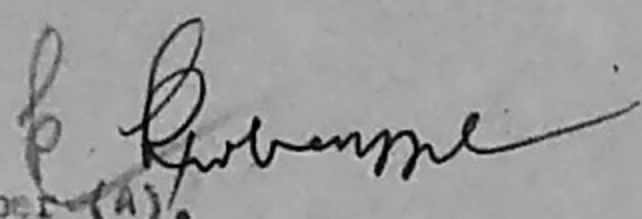
(By Hon'ble Mr. Justice U.C.Srivastava-V.C.)

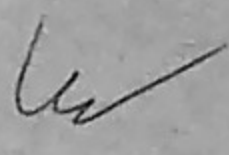
By these Transfer Applications the applicants three in number have raised the common question of law and fact, & they have been tagged together and being xx disposed of with a common judgment. All these applicants ^{who} were employees of the Ordnance ^{parachute} Factory, Kanpur are said to have left the place of work on 19.12.90 and instigated the other workers to make unlawful assembly and hurled/abuses on loyal workers. The applicants were suspended and they filed a suit challenging the suspension order, as well as awarding ~~xxx~~ penalty of reduction of pay by two stages for a period of three years with cumulative effect having the affect of postponing future increment, is illegal ultravires and inoperative. The respondents opposed the prayer and filed written statement and pointed out that all these persons made an unlawful assembly and not hurled abuses, but also because of their act, the work came to a stand still and the department has no option in the circumstances, but to take disciplinary proceedings and the disciplinary proceedings were conducted in accordance with law. On behalf of the applicants a contention was raised that Officer-in-charge - General Manager Parachute Factory has no power to initiate the disciplinary proceedings and no powers were vested in him and as such the entire proceedings were illegal. The respondents have pointed out that

powers were delegated vide order dated 12.12.1958 Ministry of Defence letter No. 11 (14) 65/(1)/Q dated 9.5.67 and the Director General Ordnance Factory letter dated 2.3.72 and the Additional Director General Ordnance Factory/Ordnance Equipment Factory Kanpur letter dated 13.11.79 the powers were delegated to the Officer-in-charge. We had occasion to deal with the delegation of powers in another case No. 19/86 filed by another similarly placed employee of same department whose case was not connected with this case, but were dealt with separately. We have held that the powers could have been delegated and Officer-in-charge has full disciplinary power. Learned counsel contended that opportunity of hearing was not given to him and the disciplinary proceedings are not in accordance with law. We have looked into the record and did not find any flaw in the proceedings or the procedure which has been adopted in the case as all these persons have formed a group ~~XXXXXXXXXXXXXXXXXXXX~~ and we are satisfied that there was no illegality in the procedure and accordingly the application deserves to be dismissed. Learned counsel for the applicant pointed out that in the previous case we have observed that as it was a case of minor penalty, the applicant will be entitled to full salary during the period under suspension, which should be paid to him within a period of three months from the date of communication of this order. Sri Ashok Mehiley learned counsel for the respondents pointed out that certain inconsistencies have crept in the judgment and in the earlier part of the judgment the Tribunal itself observed that the penalty of reduction of pay with cumulative effect given which is major penalty and not a minor penalty and applicant accordingly is not entitled to any thing. The contention appears to be correct and accordingly we observed that of course it is not fit case ~~for~~ in which suo-moto powers for review to exercise. Sri Mehiley informed us that he has already moved review application. However as we have already ordered in the case that the salary for the suspension period may be given to the employee concerned.

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We pass~~ed~~ the same order taking into consideration the gravity of the nature of the offence and the penalty which has been given and continuation^{of} the applicant as employee and in the interest of harmony between employer and employee and industrial peace. All the applications are otherwise dismissed.


Member (A).
Dt: Nov. 4, 1992.
(DPS)


Vice Chairman.