

THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH-ALLAHABAD.

T.A. NO. 1090/86.

Gaya Prasad.....Applicant.

Versus

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

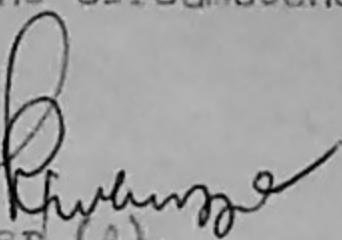
Hon'ble Mr. Justice U.C. Srivastava- V.C.
Hon'ble Mr. K. Obayya - A.M.

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

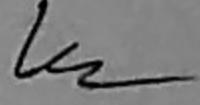
This is a transferred application under Section 29 of the Administrative Tribunals Act, 1985. The applicant against the punishment order, after departmental inquiry, dismissal of the appeal, the applicant filed a civil Suit which by operation of law has been transferred to this Tribunal. The penalty of stoppage of three increments without cumulative effect was awarded by the disciplinary authority vide order dated 10.1.85 and his appeal was also dismissed on 21.11.85. The applicant was initially appointed in the Ordnance Parachute Factory Kanpur and was later on transferred to Small Arms Factory Kanpur. It appears that in the past also some minor punishment was also given to him. A show cause notice was served under Rule 16 of the C.C.A Rules because of Mis-behaviour and unbecoming action of a Government Servant. The applicant in response to the show cause notice, has submitted a reply. Thereafter the disciplinary authority passed the impugned order. The learned counsel for the applicant contended that the impugned order was not out come of the independent mind of the disciplinary authority and it was the result of the decision which was taken by the Works Manager who had no/xx in the matter and the subordinate and the disciplinary authority was bound xxxxxxx by the said opinion of the Works Manager and i.e. why the same punishment was inflicted. It appears that the applicant filed a representation to the General Manager requesting him that the show cause notice against him may be revoked. The work manager at the foot of the said application on 26.9.84 noted that this was very serious offence. He was absent but he tried to get financial benefit by assigning the documentary evidence sufficient to prove it suggest three increments without cumulative effect, be stopped as penalty. This document has been filed by the respondent. When a

sermon coming out from the works manager, obviously, it cannot be said that the disciplinary authority did not act independently.

It may be in case there would have been no such observation by the Works Manager. The disciplinary Authority would have given him lesser punishment or no punishment. As the disciplinary authority did not act independently and it can be said ^{it} acted ~~and under~~ dictated of Works Manager. The punishment order is vitiated and accordingly this application is allowed and the punishment order dated 10.1.85 and appellate order dated 21.11.85 are quashed. However it will be open for the disciplinary authority to exercise his mind independently taking into consideration the facts of the case and the totality of the circumstances. No order as to the costs.


Member (A).

Dts September, 3, 1992.
(DPS)


Vice Chairman.