

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH  
ALLAHABAD.

T.A. No. 1067 of 1986

Jamil Ahmad.....Applicant/plaintiff

Versus

Union of India .....Respondent/defendant

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 case under section 29  
of the Administrative Tribunals Act.

2. The applicant filed a suit in the Court  
of Munsif City at Kanpur after exhausting departmental  
remedy, praying that it may be declared that the  
order dated 23.5.84, passed by the General Manager,  
O.P.F. Kanpur removing the plaintiff/applicant from  
service as Line Ministry/H.S.T No. 3349/L, is bad in  
law and arbitrary.

3. The applicant is an ex-employee of Ordnance  
Parachute Factory, Kanpur. It is not necessary to  
refer the story given by the applicant regarding  
certain annoyance against the Officers. A report  
was made against the applicant by Shri S.A.R. Kazmi,  
Officer Incharge, L.B. on the basis of which a charge  
sheet was served upon the applicant. The charge  
against him was that he entered the office and  
complained of some less payment of his salary and  
insisted for immediate payment. Shri Kazmi told him that  
it was not within his power and he should approach  
the higher authority. Thereafter, the applicant started  
shouting slogans and abusing said Kazmi. The persons,  
who entered the office to pacify the applicant, they  
were also scolded and thus the applicant made the  
atmosphere tense and, therefore, he was charged for

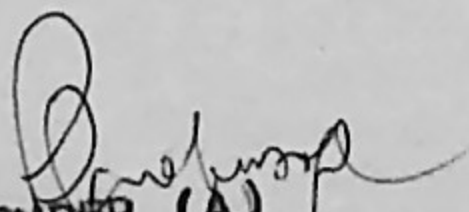


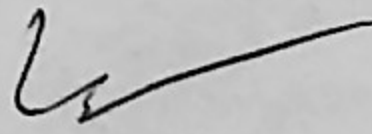
violation of Rule 3(i) of CCS(CCA) Rules, 1964. The Enquiry Officer was appointed and the enquiry was conducted and the Enquiry Officer, after concluding the enquiry, submitted his report to the Disciplinary Authority and the Disciplinary Authority acting upon the Enquiry Officer's report, dismissed the applicant from service. The applicant filed a departmental appeal which was also dismissed and thereafter, the applicant filed this suit and challenged the order on the ground that the entire proceedings are violative of principle of natural justice and he was not permitted to utilise the service of his colleagues to defend his case. The proceedings were made in English with which he was not conversant and the punishment order is a non-speaking order and so is in the case of appellate order which is also under challenge. Shri B.P. Srivastava - learned counsel for the applicant strenuously contended that there was no evidence to prove the said charge against him. He pointed out that in the charge-sheet, no word, used by the applicant from which it could be said that he abused the Officer concerned, was mentioned and in the statements of witnesses which have also been annexed by him, also do not indicate that as to what words were used by the applicant from which it could be inferred that the applicant used the filthy and abusive language. As such there was no evidence regarding abuses. The charge against the applicant was not only for hurling abuses but for entering the office and instigating for immediate payment and on being asked him to approach the higher authority, he started shouting and creating indiscipline and also started abusing the Officer and also to those who came to restrain him from doing so. It may be that everybody would not like to read the

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actual filthy words used but it was said that the abusive language was used and it should not be taken as that there was no evidence. Even if it would be said that no witness gave the actual words used but the witnesses supported the allegations of charge-sheet and as such it cannot be said that there was no charge. Even if there was some evidence to prove the charge, the Tribunal has no jurisdiction to enter into the findings which have been recorded by the Enquiry Officer as has been held in the case of 'Union of India Vs. Parmanand' 1991 SCC(L & S) 177. From defence side, it has been stated that the applicant himself did not avail the opportunity although the same was offered. So far as enquiry is concerned, the record indicates that the opportunity was given to the applicant and he preferred not to take help of his colleague. It appears that the punishment, which has been given to the applicant is very harsh and excessive and is not commensurate with the charge proved against him. In view of the fact that language has not been produced but it may be that even minor punishment could have been given to the applicant. The tribunal has <sup>no</sup> jurisdiction to reduce the quantum of punishment and as such we make no observation in this behalf. Accordingly, the application is dismissed. No order as to costs.

  
MEMBER (A)

  
VICE CHAIRMAN.

DATED: AUGUST 12, 1992.  
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