

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD.

T.A. No. 1967 of 1986

Jamil Ahmad.....Applicant/plaintiff

Versus

Union of IndiaRespondent/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.

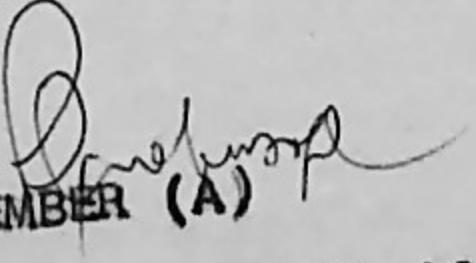
2. The applicant filed a suit in the Court
of Munsif City at Kanpur after exhausting departmental
remedy, praying that it may be declared that the
order dated 23.5.84, passed by the General Manager,
O.P.F. Kanpur removing the plaintiff/applicant from
service as Line Ministry/H.S.T No. 3349/L, is bad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

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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

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 commensurated 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 ^{no} 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)

DATED: AUGUST 12, 1992.

(ug)


VICE CHAIRMAN.