

CENTRAL ADMINISTRATIVE TRIBUNAL, ALIHAHABAD BENCH,
ALIHAHABAD.

T.A. 1776 of 1987.

Madan Mohan Applicant.

Versus

Union of India & another 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.)

The applicant was appointed as Civilian M.T. (Military Transport) Driver at the IMA at Dehradun in the month of May, 1975. On 8/9.84, he was informed that an enquiry was proposed to be held against him under Rule 14 of CCS (CCA) Rules. The article of charge No. 1 was that

"the said Shri Madan Mohan, Civ. MT Driver, on the night of 18/19th Aug. 1984, was caught taking out diesel (DHPP) from the tank of the Vehicle BA No. 79D 39039Y Lorry 3 Ton Shaktiman and putting it in a Vikram -private 3 wheeler, by Capt. SVS Kadian.

Thus, the said Shri Madan Mohan, Civ. MT Driver misappropriated Government property i.e. DHPP and as such failed to maintain absolute integrity."

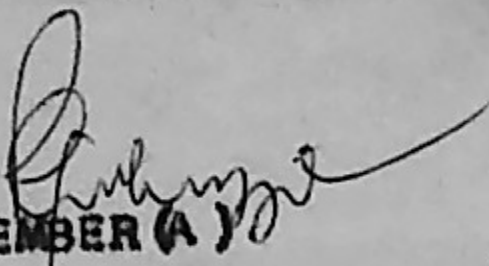
2. The applicant submitted his reply and denied the charges levelled against him. An enquiry proceeded and after departmental enquiry, the Enquiry officer held that in his opinion, the applicant had an intention of misappropriating the DHPP of his vehicle since the time he left MT on 18/8.84 at 11.15 h. It is difficult to pin point whether he had actually fallen into an act of selling the diesel as there is no fool proof evidence in support of the charge though there are circumstantial evidence available. He has misused the vehicle on 18/19.8.84 when the vehicle did 71 kms. more


than the actual run for the duties of that day. Shri Madan Mohan seems to have tampered with the kilometer head of the vehicle and later adjusted the readings in the vehicle's car diary where the kilometer head readings and the total kilometer done by the vehicle had been left blank by the users for the last two days.

3. The Disciplinary Authority agreed with the findings, recorded by the Enquiry Officer and removed the applicant from service. The opinion of the Enquiry Officer travelled beyond the charge levelled against the applicant. There was only one charge against the applicant but no clear cut opinion was recorded by the Enquiry Officer because he found him guilty of the charge regarding which there was no charge sheet as an enquiry took place. The Disciplinary Authority overlooked this fact and agreed with the findings recorded by the Enquiry Officer and removed the applicant from service and as such in these circumstances, the removal order cannot be allowed to stand. Accordingly, the application is allowed and the orders dated 3.9.84 and 12.11.84 are quashed. However, it will be open for the Disciplinary Authority to consider the evidence and excluding the opinion of the Enquiry Officer to pass necessary order taking into consideration that the guilty was very small and the opinion of the Enquiry Officer is also not very clear. Consequently, the applicant will be deemed to be continuing in service and the applicant himself is also responsible for all what has happened and he will not be entitled for salary from the date of his removal order upto this date though he will be allowed to be treated in service. With these observations, the application is

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disposed of . No order as to costs.


MEMBER (A)


VICE CHAIRMAN.

DATED: JANUARY 11, 1993.

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