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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration O.A. No.378 of 1987

Mundrika Mishra ..... Applicant

Versus

Union of India & Others ..... Respondents.

Hon. D.S. Misra, A.M.

This is an application under Section 19 of the Administrative Tribunals Act XIII of 1985 praying for quashing of the punishment order dated 3.1.1986 imposing the punishment of stoppage of one increment for a period of one year from the next increment issued by the General Manager, Ordnance Factory Kanpur and the appellate order dated 30.6.86 issued by the Dy. Director Vigilance, Ordnance Factories Board rejecting the appeal of the applicant and the subsequent appellate order dated 18.10.86 communicated by the letter of the Works Manager (Admn) Ordnance Factory Kanpur and for grant of all due annual increments thereafter.

2. The admitted facts of the case are that while working as Durwan in the Ordnance Factory, Kanpur the applicant was served with an order dated 16.7.81 issued by the Officer in temporary charge Ordnance Equipment Factory Kanpur stating that disciplinary proceedings against the applicant was contemplated and the applicant was being placed under suspension with effect from 16.7.81 (Copy Annexure-A1). The

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statement of Articles of Charge mentioned that while functioning as Durwan, the applicant committed misconduct of missing from place of duty from 1055 hours to 1125 hours on 16.7.81 and that the applicant by the said act exhibited lack of devotion and conduct unbecoming of Govt. servant, thereby violating Rule 3 of the CCS(Conduct) Rules, 1964. The Inquiry Officer conducted the enquiry and held that the applicant was not guilty of the charges. The findings of the Inquiry Officer were examined by the disciplinary authority, who under the powers conferred upon him under Rule 15(2), disagreed with the findings and gave reasons based on the evidence on record, imposed the penalty of stoppage of one increment of the applicant.

3. I have heard the learned counsel for the parties. The main argument urged by the applicant is that the General Manager, Ordnance Equipment Factory, Kanpur was not competent to impose any penalty on the applicant. In support of this contention of the applicant Shri N.K. Nair, learned counsel for the applicant referred to the decision of this very Bench of the Tribunal <sup>in</sup> General Manager, Ordnance Equipment Factory Vs. Supriya Rai ATR 1988(1) CAT 56 in which it was held that the General Manager, Ordnance Equipment Factory, Kanpur did not have the power of a disciplinary authority prior to the issue of the notification dated 2.1.87 by which such power was delegated to the General Manager by the President of India. In the instant

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case the General Manager, Ordnance Equipment Factory, Kanpur passed the impugned order on 3.1.86. The learned Additional Standing Counsel Shri K.C. Sinha for the respondents fairly conceded the contention of the applicant. On the facts and circumstances of the case, I am of the opinion that the General Manager, Ordnance Equipment Factory, Kanpur did not have the power to impose the penalty on the applicant and therefore the impugned order and the appellate orders passed by the appellate authority and the Ministry of Defence referred to in the application are null and void and are hereby quashed. The applicant will be entitled to draw his annual increment *be otherwise* if *admissible* under the rules. The application is disposed of accordingly without any order as to cost.

*Sharma*  
Member (A) 11/1/89

Dated the 11<sup>th</sup> Jan., 1989

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