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Reserved

Central Administrative Tribunal, Allahabad.

Registration O.A.No.511 of 1987

Gyan Chandra

...

Applicant

Vs.

Union of India

...

Respondent.

Hon.G.S.Sharma, JM

Hon.K.J.Raman, AM

(By Hon.G.S.Sharma, JM)

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This Original Application u/s.19 of the

Administrative Tribunals Act XIII of 1985. The Applicant has prayed that the inquiry report dated 30.1.86 and the order dated 8.4.1984 imposing the penalty of removal from service on the Applicant be set aside.

2. The material facts of this case are that the Applicant was posted as Security Assistant Gr.'A' in the Ordnance Equipment Factory Kanpur and on the allegation of some misconduct on his part he was placed under suspension on 1.7.1983 by the General Manager of the Factory and thereafter he was served with a charge sheet dated 1.12.1983 containing 7 articles of charges. As some other employees of the Factory were also involved in the said misconduct a joint inquiry was held against the Applicant and 3 others by the Addl.Joint Director Ordnance Factories Kanpur and on finding the Applicant guilty he was awarded the punishment of removal from service on 8.4.1986. The appeal preferred by the Applicant to the Secretary Defence Production Ministry of Defence Govt. of India against the said punishment has not been decided and as such, he has challenged the impugned order of removal from service as well as the inquiry report before this Tribunal on various grounds

3. The case has been contested on behalf of the Respondent~~s~~ and it has tried to support the impugned order and the procedure adopted in the disciplinary proceedings against the Applicant.

3. At the time of arguments before us, it was contended on behalf of the Applicant that in view of the decision of a Bench of this Tribunal in General Manager Ordnance Equipment Factory Kanpur Vs. Supriya Roy (A.T.R.1988 (1) CAT-56), the Director General of Ordnance Factories was his appointing^{and Disciplinary} authority and the Addl. Director could not remove him from service and the inquiry report and the impugned orders are, therefore, without jurisdiction. The difficulty in the present case, however, is that the Applicant^{earlier} never raised any objection regarding the jurisdiction of the Addl. Director to conduct the disciplinary proceedings against him. On the other hand, his stand throughout was that the General Manager of the Ordnance Equipment Factory is his appointing and disciplinary authority. Even in his appeal against the impugned order of punishment, copy annexure A-26, which has been carefully perused by us, it was stated in sub-para 9 of para 19 that the Genral Manager, Ordnance Equipment Factory Kanpur is his disciplinary authority in the matter and the inquiry officer was appointed by him while the penalty of removal was imposed by the Addl. Director Ordnance Factories who is otherwise the appellate authority. Even in para 19, it has been stated that the disciplinary authority who had issued the charge sheet has not decided the case himself and it was decided by the Addl. DGOF. In this way, he clearly admitted that the General Manager of the Ordnance Equipment Factory was his disciplinary authority and the stand

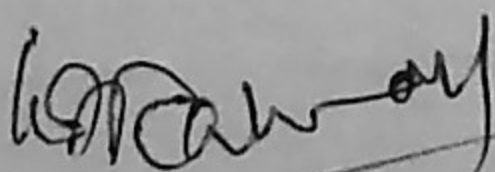
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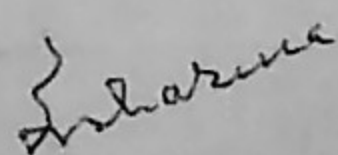
sought to be taken by the Applicant before us on the basis of a decision of this Bench, therefore, appears to be an afterthought.

4. The Applicant has further raised various other ~~pleas~~^{issues} regarding the procedure followed by the inquiry officer and he has also challenged the quantum of punishment awarded to him. Under the rules these points are to be considered by the departmental appellate authority in appeals against the orders of punishment. In this case, admittedly, an appeal was filed by the Applicant but the Respondent did not decide the same and it was pleaded in the Counter Affidavit that it is still under consideration. This conduct of the Respondent cannot be appreciated. The Applicant has been awarded the maximum penalty of removal from service and his appeal was not decided till he filed this petition on 28.5.87. We, however, feel that the various pleas raised by the Applicant can be better dealt with by the appellate authority and this Tribunal has a very limited scope in the cases of this nature.

5. We accordingly direct the Respondent to decide the appeal dated 29.4.86, copy Annexure A-26, preferred by the Applicant against the impugned order of his removal from service in accordance with the provisions of R.27 of CCS (CCA) Rules by passing a speaking order within a period of 4 months from the date of the communication of this order. The Applicant will be free to raise the question of jurisdiction in respect of the disciplinary authority before the appellate authority. The parties are directed to bear their own costs.



MEMBER (A)



MEMBER (J)

Dated: Aug. 16, 1989
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