

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

ALLAHABAD THIS THE ...^{2th}...DAY OF JANUARY, 1997.

CORAM : HON. MR. S. DAS GUPTA, MEMBER (A)
HON. MR. T. L. VERMA, MEMBER (J)

Original Application No. 1645 of 1992.

Mahendra Kishore Dixit, aged about 37 years,
son of Shri J.P. Dixit, resident of NT-2/282,
Armapore Estate, Kanpur, employed as Store Keeper,
Field Gun Factory, Kanpur.Applicant.

(Through Sri N.K. NAIR ADVOCATE)

Versus

1. Union of India through the Secretary,
Ministry of Defence, Department of Defence,
Production, Government of India, New Delhi.
2. The Chairman, Ordnance Factory Board/Director,
General of Ordnance Factories, 1C-A, Auckland
Road, Calcutta.
3. General Manager, Field Gun Factory,
Kanpur.Respondents

(Through Sri N.B. Singh, Advocate)

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(By Hon. Mr. T.L. VERMA, Member-J)

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This application under Section 19 of the
Administrative Tribunals Act, 1985 has been filed
for quashing order dated 29.3.1991 imposing on the
applicant the penalty of stoppage of increments
for a period of two years without cumulative effect
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and order dated 6.4.1992 passed by the appellate authority confirming the order dated 29.3.1991 imposing penalty of with-holding of increments and for issuing a direction to the respondents to grant the applicant all consequential benefits.

2. The applicant was employed as Store Keeper in the Field Gun Factory Kanpur at the relevant time. It is stated that on 22.2.1991 a surprise check of the H.D.Godown was held and the applicant was informed that some pieces of coloured Goggles cup type L.F. No.9921260865 were found short in the stock and accordingly minor penalty charge-sheet was issued to the applicant on 5.3.1991. The applicant submitted his written statement of defence on 12.3.1991. The disciplinary authority did not accept the defence taken by the applicant and by impugned order dated 29.3.1991 imposed punishment of with-holding of increment for a period of two years without cumulative effect. The appeal filed by the applicant against the penalty imposed, was rejected by order dated 6.4.1992. Hence this application for the reliefs mentioned above.

3. The impugned orders have been assailed mainly on the ground that the same have been passed without verifying the facts mentioned in the representation submitted by the applicant. It has also been contended that the order passed by the disciplinary authority is non-speaking and has been mechanically passed.

4. We have heard the learned counsel for the parties and perused the record carefully. In the representation submitted by the applicant it has very specifically been mentioned that coloured goggles ~~in~~ two numbers were issued to Forge Shop and four numbers to the Workmen of H.T. Section and that the same have been mentioned in the Stock Register kept in H.T. Godown and the signature of the concerned officer has been obtained therein. Regarding ^{to} damage ~~of~~ two numbers of goggles, it has been stated that they were received in the same condition by him from his predecessor in office. The order passed by the disciplinary authority does not mention the ground which the applicant had taken in his defence. All that ^{order states is that} ~~the suggests that~~ the representation submitted by him, has been duly considered and that the same has not been found satisfactory. The order passed by the disciplinary authority does not meet the grounds taken by the applicant in his defence. In other words the shortage stated to have been found in the stock, has been explained by the applicant in his representation. The disciplinary authority was expected to have ~~been~~ given its reasons for not accepting the explanation given by the applicant. The order of the disciplinary authority is thus clearly non-speaking and therefore, violative of rule of the natural justice.

5. In a case like the one under consideration where the employee ~~was~~ punished in a disciplinary proceeding ~~has~~ taken a very clear stand that ~~the~~ some of the articles found damaged were received by him in the same condition ^{from} ~~by~~ his predecessor and also that the remaining articles

said to be short have been issued to concerned departments, a detailed inquiry in which witnesses were examined and stock register was produced for examination was necessary. It is true that where a minor punishment is to be imposed, holding of an enquiry is not mandatory. This, however, does not mean that where the facts alleged warrant a detailed enquiry it shall not be held. In such cases, the discretion lies in holding such an enquiry in the interest of justice. A similar question came up for consideration before Jammu & Kashmir High Court in Mansa Ram Vs. General Manager (Telephone) J & K Circle, Srinagar - others reported in AIR 1980 page 382. Their Lordships have held as follows :-

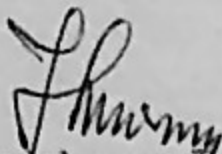
"There can be no manner of doubt that where a minor punishment is sought to be imposed, the procedure for holding an enquiry need not be followed, unless otherwise desired by the disciplinary authority. But surely it does not mean that the enquiry is barred or that it is entirely subject to the pleasure of the disciplinary authority. The latter must apply its mind to the facts and circumstances of the case as disclosed in the representation of the employee and other available material and give a reasoned finding whether an enquiry is or is not necessary. In the absence of such finding an order imposing the penalty would be invalid and of no legal consequence unless, of course, it can be shown that the omission has not resulted in any material prejudice to the employee."

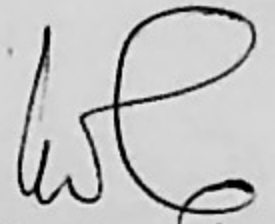
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6. We are in agreement with the view expressed by the High Court in the aforementioned case. Following the decision in Mansa Ram's case, we hold that in the facts and

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a period of three months from the date of communication of this order. The parties to bear their own costs.


Member-J


Member-A

(Pandey)