

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 29th day of November, 2000

Original Application No.1760 of 1992

CORAM :-

Hon'ble Mr. Justice RRK Trivedi, V.C.

Hon'ble Mr. S. Dayal, A.M.

Shri Niwas

58/12, Birhana Road,

Kanpur City.

(Sri RK Rajan, Advocate)

..... Applicant

Versus

1. Union of India through Secretary,

Ministry of Defence, New Delhi

2. The Chairman, Board of Ordnance Factories,
Explanade-6, East Calcutta-69.

3. Additional Director General,
Ordnance Factories, O.E. Group,
Sarvodaya Nagar, Kanpur-5.

4. The General Manager,
Ordnance Equipment Factory, Kanpur.

(Km. Sadhna Srivastava, Advocate)

..... Respondents

O R D E R (O_r_a_1)

By Hon'ble Mr. Justice RRK Trivedi, V.C.

By this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant has challenged the order of punishment in disciplinary proceedings by which the penalty of reduction in pay by two stages in the time scale of pay for two years with cumulative effect has been imposed. The order of punishment has been maintained in the Appeal by the order of the appellate authority dated 29-10-1992. Learned counsel for the applicant challenged the impugned

order on the ground that the appointing authority and disciplinary authority for the applicant, who was serving as Chargeman Grade II, was Deputy General Manager, Ordnance Factories and not General Manager. As the orders have been passed by the incompetent authority, namely, General Manager, they are liable to be set aside.

2. We have carefully examined this plea raised on behalf of the applicant. However, from perusal of the Schedule appended to CCS(CCA) Rules, it appears that for all Grade 'C' posts, General Manager is the appointing authority as well as disciplinary authority for imposing penalty. The order of punishment was passed on 25-1-1992 on which date the General Manager was the appointing authority. Learned counsel for the respondents has submitted that this amendment in the Schedule was brought about by notification dated 26-11-1986 while the charge sheet was served in 1981. The submission is not acceptable as counsel for the respondents has not been able to place the position of the Schedule as prevailing in 1981.

3. Km. Sadhna Srivastava, counsel for the respondents also invited our attention towards the delegation of power by the Central Government by notification dated 14-2-1964 in which under the heading 'Power of General Managers of Factories at Serial No.7', General Manager has been shown the appointing authority for industrial employees, non-industrial employees and NGOs. In the circumstances, in our opinion the contention of the learned counsel for the applicant cannot be accepted that the orders are bad on the ground of want of authority on the part of General Manager.

4. The charge against the applicant was that he accepted the rope cotton cable lid 3 strand undyed which was 630 mtrs less than shown in the Firm's Challan when the rope was checked and inspected on 06-8-1981. The delivery of the rope was taken on 24-7-1981. In this connection learned counsel for the applicant submitted

that it was not the responsibility of the applicant to check quantity of the rope. He submitted that it was for the Store Receipt Section to check the measurement of the rope. However, no such defence was raised by the applicant before the appointing authority or the appellate authority. This plea has been raised for the first time and is liable to be rejected on this ground. From perusal of the appellate order, in which the grounds raised before the appellate authority are mentioned in detail, ^{it is clear that} ~~but no~~ such point ^{was} ~~has been~~ raised. We have perused the order of both the authorities. The charge against the applicant has been approved and considering the seriousness of charge, it cannot be said that the punishment awarded is in any manner excessive or arbitrary.

5. Learned counsel for the applicant submitted that ^{shortage in} ^{good in} the ~~entire~~ rope was made ~~and kept~~ by the supplier and ^{thus} there was mitigating circumstances and the punishment awarded should have been lesser and the authority should have taken lenient view in the matter. In our opinion the charge has been proved against the applicant and the punishment would have been much more but it appears that for this reason ^{other} ~~shortage was made good and~~ lenient view has been taken- We do not find any merit in the application. The OA is accordingly rejected with no order as to costs.

 Member (A)

 Vice Chairman

Dube/