

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 29TH DAY OF AUGUST, 2000

Original Application no.1775 of 1992

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MR.S.BISWAS, MEMBER(A)

Fateh Bahadur Singh, s/o Sri Raj Deo singh,  
Working as Assistant Foreman(Technical)  
Small Arms Factory, Kanpur.

... Applicant

(By Adv: Shri S.K.OM)

Versus

1. Union of India through the Secretary  
Ministry of Defence Production  
Government of India, New Delhi.
2. Joint Director/Vigilance,  
Ordnance Factory Board,  
10-A Auckland Road,  
Calcutta- 700 001
3. Dy.Director General,  
Ordnance Factory Board,  
10-A, Auckland Road,  
Calcutta- 700 001
4. General manager, Small Arms Factory  
Kanpur.

... Respondents

(By Adv: Shri Ashok Mohiley)

O R D E R(Oral)

(By Hon.Mr.Justice R.R.K.Trivedi,V.C.)

This application u/s19 of the A.T.Act 1985 has been filed challenging the order dated 30.11.1988 by which applicant has been punished with a penalty of stoppage of one increment without cumulative effect for the lapses shown in performing the duty on 11.12.1987. The order of punishment had been confirmed in appeal on 22.3.1990 and by Revising Authority by order dated 21.7.1992.

Shri S.K.Om learned counsel for the applicant questioned the legality of the impugned orders on the ground that no inquiry has been held, after he submitted his representation(Annexure3) on 26.4.1988 and straight away order of punishment has been passed.

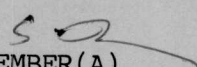
Learned counsel has also submitted that by order dated 17.3.1988 applicant was only advised to be careful for lapse in similar duty of Muster<sup>in</sup> on 26.2.1988. The effect of this order was that earlier lapses could not be picked up for awarding punishment.

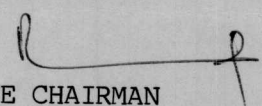
We have carefully considered the submission of the learned counsel for the applicant. However, we are not convinced with the submissions. A perusal of the representation submitted by the applicant on 26.4.1988 shows that he was aware that defence security men had reported that applicant was not present to discharge Muster<sup>in</sup> duty on 11.12.1987. The applicant tried to explain it by saying that either the security men could not recognise or locate his presence or forgot to give the correct report. As the applicant was fully aware of the charge against him and also the material, it was for him to prove his presence in the gate for performance of Muster<sup>in</sup> duty. However, in the representation the applicant did not claim that he wants to adduce any evidence in support of his explanation. In the circumstances, the Punishing Authority rightly relied on the uncontroverted material. The representation/explanation by itself could not be evidence to controvert the material on record.

So far as the second submission of the learned counsel for the applicant is concerned, we do not find anything in the order dated 17.3.1988 that earlier ~~the~~ lapses were condoned, the applicant was only apprised of that he had committed earlier similar misconduct of non performance of duty.

The punishment awarded appears to be justified in the facts and circumstances of the case and it cannot be termed excessive.

For the reasons stated above, we do not find any merit in this application and is accordingly dismissed. No order as to costs.

  
MEMBER (A)

  
VICE CHAIRMAN

Dated: 29.8.2000

Uv/