

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Allahabad, this the 17th day of May, 2000.

ORIGINAL APPLICATION NO. 711 of 1992

CORAM : Hon'ble Mr. S. Dayal, Member (A)

Hon'ble Mr. Rafiq Uddin, Member (J)

Gurdev Singh Siddhu, aged about 60 years,
son of Late Jamit Singh, resident of 76/4,
Labour Colony, Govind Nagar, Kanpur, previously
employed as Foreman, Ordnance Factory, Kanpur.

... Applicant

C/A Shri M.K. Upadhyay

Shri N.K. Nair

Versus

1. Union of India, through the Secretary,
Ministry of Defence, Department of Defence
Production, Government of India, New Delhi.
2. Chairman, Ordnance Factory Board/Director
General of Ordnance Factories, 10-A,
Auckland Road, Calcutta.
3. General Manager, Ordnance Factory,
Kanpur.

... Respondents

C/R Shri Amit Sthalekar.

ORDER

(By Hon'ble Mr. S. Dayal, Member (A))

This application under Section 19 of the
Central Administrative Act 1985 has been filed seeking
prayer that order dated 27.05.1988 and dated 11.04.1991
be quashed and the applicant be allowed the withheld
amount of the pay and allowances along with pay and

allowances for the period of suspension from 19.07.1983 to 30.07.1983 over and above the subsistence allowance and promotion to the post of Foreman from the due date in March 1984.

2. The facts are that the applicant was working as Assistant Foreman in Ordnance Factory, Kanpur. One Slinger named Sone Singh met with an accident resulting in his death and Inquiry was conducted against the applicant resulting in punishment order. The appellate authority set aside the punishment order and passed a different order of punishment which was upheld by the reviewing authority.

3. The arguments of Shri M.K. Upadhyay for the applicant and Shri Amit Sthalekar for the respondents have been heard.

4. The learned counsel for the applicant stressed three points before us. The first of this was that the applicant was not given copies of the documents sought by him. We find from Annexure A-9 that the applicant had asked for doctor's report/death certificate and post-mortem report of the deceased. This request for documents was not acceded by respondents. The claims of the applicant is that this led to denial of opportunity to defend himself. We do not accept this contention of learned counsel for the applicant because the documents sought were not relevant in the light of statement of imputation against the applicant. There is no denial on the part of any party that Shri Sone Singh had died. Under the circumstances of the

request of the documents was merely for the sake of using it as a ploy for defence later.

5. The learned counsel for the applicant has stated that the Inquiry Officer subjected the applicant to a very lengthy cross-examination and thus acted as judge and prosecutor or both. In the absense of the statement of the applicant in the enquiry, the assertion of the applicant that he was subjected to lengthy cross-examination which showed that the Inquiry Officer had acted as judge and prosecutor both cannot be substantiated.

6. The learned counsel for the applicant mentions that respondents had also proceeded against Shri U.K.S. Chauhan, who was functioning as Chargeman grade- 2 and that the respondents had found him responsible for delinquencies relating to the death of Shri Sone Singh. Therefore, the applicant could not have been subjected to any punishment. In addition he has mentioned that the applicant was on lunch break when the incident occurred. All these are dispute of the fact which have been taken into account by the Inquiry Officer and there is no contention that the Inquiry Officer had not, on the basis of the evidence on record, found the applicant to be guilty. Hence, contention of learned counsel for the applicant did not show that there has been any denial of defence to the applicant or that the inquiry suffers from any blemish from such a denial of defence.

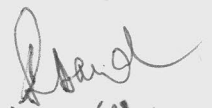
7. The next issue raised by learned counsel for the applicant is that the order of the appellate

authority was passed after the period of punishment imposed by the disciplinary authority was over and thus the applicant was subjected to punishment imposed by the disciplinary authority as well as by the appellate authority. The learned counsel for the respondents has contested this point raised by learned counsel for the applicant and has stated that the appellate authority has set aside the order of the disciplinary authority because the order was not passed by the authority having jurisdiction to do so. And, therefore, after setting aside order of the disciplinary authority the appellate authority passed the order of punishment. We find that the appellate order mentions that the order ^{of} Member, Personnel, Ordnance Factory Board which was communicated by General Manager to the Charged official was without any authority because it is an admitted fact that Director General Ordnance Factory was the disciplinary authority in this case. Therefore, the setting aside of the order was correct. However, what we find strange in this case is that the appellate authority has made the penalty take effect from 05.01.1988. The order of disciplinary authority had been passed on 17.01.1985 reducing the pay of the applicant by two incremental stages for a period of three years. Thus, the punishment came to an end on 16.01.1986 and order dated 05.01.1988 extends this period of punishment by one more year. The purpose of this is not clear. The learned counsel for the applicant has contended that he was made to undergo punishment from 17.01.1985 to 16.01.1987 and thereafter again from 05.01.1988 to 04.01.1989. The learned counsel for the respondents contends that both

the punishments were as a matter of fact the same and there was no enhancement for which a show cause notice may have to be given to the applicant. Further highlights the needlessness of the punishment imposed by appellate authority. The promotion of the applicant was already affected by the order of the disciplinary authority and was further delayed by the order of the appellate authority. Hence, without changing the quantum of punishment we provide that the punishment imposed by order dated 27.05.1988 would be treated to have been imposed on 17.01.1985 and would end on 16.01.1986. If the applicant has been subjected to both the punishments, the underpayment on account of one of them shall be refunded to the applicant. With this observation the application stands disposed of.

No order as to costs.


Member (J)


Member (A)

/S.P./