

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 11th day of December 2001.

Original Application no. 840 of 1992.

Hon'ble Mr. Justice R.R.K. Teivedi, Vice-Chairman
Hon'ble Maj Gen K.K. Srivastava, Administrative Member

Jai Chandra, S/o Late Sri Khamani Ram,
no. 6833, T.C.M. 509 Army Base Workshop,
Agra, R/o H. no 4/62 Chauraha Pachkuian,

AGRA.

... Applicant

By Adv SRI A.F. Singh

Versus

1. The Union of India through the Commander Headquarters, Technical Group (EME) Delhi Cantt., (Ministry of Defence), Govt. of India.
2. The Commandant 509 Army Base Workshop,
Agra Cantt.
Agra.

... Respondents

By Adv : KM Sadhana Srivastava.

C R D E R

Hon'ble Mr. Justice RRK Trivedi, VC.

By this O.A filed under section 19 of the A.T. Act, 1985, the applicant has challenged the order of punishment dated 13.3.1991 passed by Commandant, 509 Army Base Workshop

Agra Cantt., Agra (Disciplinary Authority), by which he has been punished by reduction of pay by one stage i.e. from Rs. 1380/- p.m. to lower stage at Rs. 1350/- p.m. in the time scale of Rs. 1320 -2040 for a period of 2 years with cumulative effect and that he will not earn increment during the period of reduction. The aforesaid order was confirmed in appeal by the Appellate Authority's order dated 3.3.1992 (Ann. 2). ~~The Appellate Authority dismissed the appeal and confirmed the order.~~

2. The facts of the case are that the applicant was selected for appointment as Telecommunication Mechanic (TCM). He filed his attestation form on 5.3.1988 before his appointment in the Workshop. He joined on 4.4.1988 under the appointment order dated 31.3.1988. He was served with show cause notice as to why his services should not be terminated for suppression of factual information in the attestation form under the provision of Ministry of Home Affairs OM no. 5/1/65-Estt (D) dated 30.4.1965, according to which, he was also directed to provide full details of case no. 40 A of 1988. In fact he submitted his reply on 27.09.1988 enclosing the copy of FIR which reveals that an FIR was lodged on 23.3.1988 (much after he filled the attestation form). As the name of accused in the FIR was mentioned as Jai Singh and not Jai Chandra, there was a doubt as to whether the applicant is actually ^{involved} in the case or not. As a precautionary major he submitted an application before Court for bail on 28.3.1988, but his surrender was not accepted as the applicant's name was not mentioned in the FIR, therefore, he joined ^{Served on} 2.4.1988. He applied for bail in the Court and the Court granted him bail on the same day. The applicant was, thereafter,

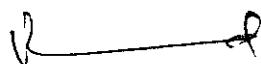
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served a memo of charge dated 30.1.1989 for the following charges :-

"Gross Mis-conduct, i.e. Supression of factual information regarding his surrender in the Court of Law in a crime case No. 40A/88 registered by the Civil Police, Thana Nai-Ki-Mandi, Agra and not disclosing the fact about a Criminal ~~case~~ under Sections 147/223/336/307/294 IPC, pending against him."

On the basis of this charge as usual the disciplinary proceedings were initiated against the applicant. The Enquiry Officer submitted the report and the disciplinary authority by the aforesaid order punished the applicant as stated above.

3. As is clear from the date mentioned above, the attestation form submitted by the applicant on 5.3.1988. There is no dispute that till that date no FIR was lodged against the applicant. The FIR for crime case no. 40A/88 was lodged on 23.3.1988 in which ~~his~~ name Jai Chandra was mentioned. He could be under bonafide doubt whether he is involved in the case or not. Subsequently he tried to surrender, but it was not accepted by the Court on account of the fact that his name was not mentioned. At later stage on 2.4.1988 his application for surrender was accepted and he has granted bail. The charge against the applicant is supression of the factual information regarding his involvement in the criminal case. From the facts disclosed above it is clear that the events took place so closely that it could not be possible for the applicant to inform about his involvement. The attestation form was already submitted on 5.3.1988 and there was no other document, ~~which~~ required from him to be furnished in which such information could be given. He joined on 4.4.1988 before that he was already granted bail in the case. A Govt. employee may be involved in private

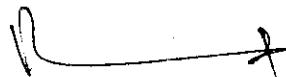


disputes as he lives in society where he has to deal with human beings. Learned counsel for the respondents has not been able to place before us any rule or order ~~considering~~ ^{creating} the legal obligation ~~of~~ ^{even} Govt. employee to ^{given} information of his involvement in civil or criminal case. ^{to} Obligation under Sub rule 24 of Rule 3 of CCS (Conduct) Rules 1964 is only with regard to conviction in criminal case. In the present case the applicant has been acquitted in the criminal case on 15.6.1989. In ~~these~~ ^{these} circumstances, in our opinion the punishment awarded to the applicant cannot be sustained for ^{two} ~~two~~ reasons. Firstly, the FIR was lodged after he has ^{already} submitted his attestation form and there is no rule creating obligation on him to inform his involvement ⁱⁿ a criminal case. In the facts and circumstances of the case there is no question of suppression of any information on the part of the applicant. The punishment awarded thus cannot be justified.

4. For the reasons stated above the O.A. is allowed. ^{o and 3-3-92 (Ann 2) are} Impugned order dated 13.3.1991 (Ann 1) is quashed. The respondents shall pay the amount which has been deducted under the impugned order within a period of 6 months from the date copy of this order is filed.

5. There will be no order as to costs.


Member-A


Vice-Chairman