

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 22nd day of March 1999

Original Application No.1349 of 1992

District : Kanpur

CORAM:-

Hon'ble Mr. Justice Neelam Sanjiva Reddy, V.C.

Hon'ble Mr. G. Ramakrishnan, A.M.

Bhagwan Lin S/o Late Khurram Lal,
R/o 17/42, Labour Colony, Lada Nagar,
Kanpur presently employed as Machinist (SS),
Ticket No.48/NRPS, Ordnance Factory, Kanpur.

(Sri N.K. Nair/Shri MK Upadhyaya, Advocates)

. Applicant

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, Ackland Road, Calcutta-1.
3. General Manager, Ordnance Factory,
Kalpi Road, Kanpur.

(Sri Amit Sthalekar, Advocate)

. Respondents

ORDER (Oral)-

By Hon'ble Mr. Justice Neelam Sanjiva Reddy, V.C.

This application has been filed under Section 19 of
the Administrative Tribunals Act, 1985, for the following
reliefs:-

"The punishment order no.1210/COMP/VIG/IE/153 dated
15-10-1986, passed by the General Manager, Ordnance
Factory, Kanpur, imposing on the applicant, the
penalty of reduction in rank to the post of
Machinist (SS) from the post of Machinist (Skilled),
from the date of the order with a direction that

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the applicant will not be automatically restored to the highest grade, until he is found fit by the competent authority (Annexure-A-1), the appellate order no.8707/A/VIG dated 3-10-1989, passed by the Assistant Director/Vigilance, Ordnance Factory Board, Calcutta, dismissing the appeal dated 12-11-1988, preferred by the applicant against the punishment order, the order no.22(24)/II/92/D (FY-II) dated 10-6-1992, issued by the Desk Officer, for and on behalf of the President of India, dismissing the Review Petition dated 6-1-1990, preferred by the applicant and the Order of the General Manager, Ordnance Factory, Kanpur, published vide Ordnance Factory, Kanpur Order Part II No.735 dated 18-2-1989, forfeiting the pay and allowances of the applicant for the period of suspension from 24-5-1988 to 13-8-1988 and treating the period of suspension to be period which will not count towards increment. Leave, pension etc. (Annexure-A-4), be quashed and the respondents be directed to grant all consequential benefits to the applicant".

2. The facts leading to this application and necessary for disposal of this case, briefly stated are that the applicant and one Shri Surjan Lal Trivedi in Ordnance Factory Kanpur were found playing cards when they were on duty on the night 23/24 May, 1988 and both of them were charge-sheeted for awarding major penalty.

3. The applicant gave the ~~xxxxxxx~~ explanation detailed in Annexure-A-7 to the application. Admitting the charge he stated that they were playing cards only for entertainment and to avoid sleeping. In view of the above admission of the applicant, no further enquiry was held and both, the applicant and the other person were punished as follows.

4. Shri Bhagwan Lin was punished as detailed in Annexure-A-1 and the punishment awarded to him is the penalty of reduction in rank to the post of Machinist

64

Semi-Skilled in the time scale of pay of Rs.800-1150/-, from the date of the order of punishment and it has also been further noticed that the delinquent shall not be automatically restored to the higher grade until he is found fit by the competent authority, whereas the other person was awarded punishment as detailed in Annexure-16 and the punishment awarded is that his pay was reduced by two incremental stages for a period of one year without cumulative effect. Aggrieved by the above order the applicant has preferred this application.

5. Shri M.K. Upadhyaya, learned counsel for the applicant though took several pleas, remained confined himself to the question of punishment only. The plea of the counsel for the applicant was that when two persons were proceeded with in departmental enquiry for the same offence awarding two separate punishments, is arbitrary, irrational & is liable to be set aside.

6. Shri Amit Sthalekar, counsel for the respondents submits that the ~~xxxx~~ penalty for the offence is removal from service but the applicant was awarded with lesser punishment and further it is for the disciplinary authority to decide the quantum of punishment to impose on a delinquent after he was found guilty.


7. It is seen from the record that the same charge was framed against both the persons in this case, though there is a little difference in Annexure-2 of the charge-sheet. However, the offence with which he was punished about six years earlier was ~~not~~ specifically detailed in the Annexure-1 to the charge-sheet to answer the charge in proper perspective by the delinquent. If really earlier finding of guilt for same offence was detailed in the Annexure-1 of the charge sheet, the delinquent would have ~~xxxxxxx~~

43

~~have~~ explained the circumstances to avoid grave penalty likely to be imposed in this case. Considering the circumstances, we are of the view that awarded penalty to the applicant was more harsh than the penalty awarded to the other person for the same offence and is quite arbitrary. Under these circumstances, we are inclined to allow this application and remit the matter to the disciplinary authority to consider and dispose of the prayer of the applicant for punishing at par with the punishment awarded to the other person within two months from the date of receipt of this order.

8. The application is disposed of accordingly with no order as to costs.


Member (A)


Vice Chairman

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