

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 15<sup>th</sup> DAY OF APRIL 1997

Original Application No. 1462 of 1993

HON.MR.JUSTICE B.C.SAKSENA,V.C.

HON.MR.D.S.BAWEJA, MEMBER(A)

S.K. Gupta, son of Late Ram Saran das  
Ex-Pharmacish, Ordnance Clothing Factory  
Hospital, Shahjahanpur, r/o Qr.  
No.265/4/H-Factory Estate,  
Shahjahanpur.

Applicant

(By Advocate Shri Ranjeet Saxena)  
vs

1. Union of India through Ministry of Defence, through Additional Director General, Ordnance Equipment Factories Group Head Qr. G.T. Road Kanpur.
2. Union of India through General Manager Ordnance Clothing Factories Shahjahanpur
3. Union of India through Secretary, Ministry of Defence, Govt. of India, New Delhi.
4. Union of India, through Chairman Ordnance Factories Board, Ministry of Defence, 6 Eshphland Calcutta

Respondents

O R D E R (Reserved)

JUSTICE B.C.SAKSENA, V.C.

By means of this OA the applicant challenges an order of punishment dated 24.2.93 passed by the General Manager Ordnance Clothing Factory, Shahjahanpur as also the order dated 27.8.93 passed by the Addl. Director General Ordnance Equipment Factory, Kanpur rejecting the appeal against the order of punishment. By the order of punishment a penalty of compulsory retirement from government service w.e.f. 24.2.93 was imposed on the applicant.

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The applicant was working as a Pharmacist in the Finance Clothing Factory, Shahjahanpur. on 26.8.91 the applicant was checked by the gatekeeper and he was asked with regard to a piece of white terrycot cloth measuring 1.10.metre. The applicant made a statement before the Asstt. Works Manager on the said date that the piece of cloth had been purchased by him through his friend Om Prakash but at the time of entering the factory in the morning he forgot to report the same to the gatekeeper. The statements of certain persons were also recorded in which they stated that when the applicant has been checked he started running with the cycle and the applicant was caught. He left the cycle and took the bag to the searching room before the Supervisor Security and the bag was checked and it was found to contain the white terrycot piece of cloth. The applicant was placed under suspension by an order passed on 4.9.91. A charge sheet was issued to the applicant. A departmental inquiry was held and certain witnesses on behalf of the applicant were also examined. The Enquiry officer in his report dated 28.10.92 held the charges to be proved. The Disciplinary Authority agreeing with the findings of the Enquiry officer passed the order for compulsory retirement of the applicant. The Appellate Authority confirmed the order of punishment.

3. We have heard the learned counsels for the parties. The learned counsel for the applicant drew our attention to the statement made by the store-holder that such kind of cloth measuring 1.40 metre width is not received by the factory and only 1.38 cm is received in the factory. The learned counsel also wanted to derive support from the statements of the defence witnesses to show that the

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charges levelled against the applicant were unfounded and cannot be said to have been proved during the inquiry proceedings.

4. The learned counsel for the applicant submitted that the applicant was getting a salary of Rs.4136/- and therefore it was highly improbable that he attempted to steal a piece of cloth worth Rs.55/- only to put his services in danger. He submitted that the departmental witnesses estimated the cloth worth Rs.150/- and even if that be so it does not detract from the plea raised by him.

5. We have gone through the order of punishment, Enquiry officer's report and the order passed by the Disciplinary Authority as also the Appellate Authority. The scope of judicial review of orders passed in the disciplinary proceedings and the ambit of the power of the Tribunal in such matters is fairly well settled.

6. The learned counsel for the respondents cited a recent decision of the Hon'ble Supreme Court reported in 1996 SCC(L&S) 627 State of Tamil Nadu and another vs. S. Subramaniam. After analysing the settled legal position

<sup>made</sup> the following observation: was made:

<sup>89</sup> "The Tribunal is not a court of appeal.

The power of judicial review of the High court under Art. 226 of the Constitution

of India was taken away by the power

under Article 323-A and invested in the

Tribunal by the Administrative Tribunals

Act 1985. It is settled law that the

Tribunal has only power of judicial

review of the administrative action

of the appellant on complaints

relating to service conditions of employees. It is the exclusive domain of the disciplinary authority to consider the evidence on record and to record findings whether the charge has been proved or not. It is equally settled law that technical rules of evidence have no application to the disciplinary proceedings and the authority is to consider the material on record. In judicial review, it is settled law that the Court or the Tribunal has no power to trench on the jurisdiction to appreciate the evidence and to arrive at its own conclusion.

Judicial review is not an appeal from a decision but a review of the manner in which the decision is made.....

When the conclusion reached by the authority is based on evidence, the Tribunal is devoid of power to reappreciate the evidence and come to its own conclusion on the proof of the charge. The only consideration the Court/Tribunal has in its judicial review is whether the conclusion is based on evidence on record and supports the finding or whether the conclusion is based on no evidence."

7. In view of the explicit enunciation of the law on the subject this Tribunal <sup>has</sup> only to consider whether the findings recorded in the instant case is based on no evidence and whether the conclusion of the Disciplinary authority are supported by the evidence on record. It is not open to this Tribunal to analyse the evidence and to reach its own conclusions. We, therefore do not find any *Recd*

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made out to interfere with the findings recorded by  
Disciplinary Authority and confirmed by the Appellate  
Authority or to interfere with the punishment order.

8. The learned counsel for the applicant cited the  
following two decisions:

(1) S. Ram Chandra Raju vs. State of Orissa  
reported in Supreme Court Service Rulings  
vol(9) pg 296

(2) Baldev Raj Chaddha vs. Union of India and Ors  
reported in 1980 (4) SCC 321

These two cases have no relevance to the present case.  
They no doubt related to an order of compulsory retirement  
but one passed in exercise of power under F.R. 56-J or any  
equivalent provision. in Ram Chandra Raju's case  
analogous provision that was considered was the Orissa  
Service Code Rule 71-A. The penalty of compulsory  
retirement imposed against the applicant was by way of  
punishment under the provisions of the CCS(CCA) Rules,  
reliance on the two decisions is therefore wholly  
misconceived.

9. In view of the above, no case for interference with  
the order of punishment and other impugned orders is made  
out. The OA accordingly fails and is dismissed. Parties  
to bear their own costs.

B. Chakravarthy

VICE CHAIRMAN

B. Chakravarthy  
MEMBER(A)

Dated: April. 15/1997

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