

## CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 2ND DAY OF NOVEMBER, 2001

Original Application No.1720 of 1993

CORAM:

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

HON.MR.C.S.CHADHA, MEMBER(A)

M.C.gupta, aged about 54 years,  
 Son of Late Banarsi Das, R/o 1/6  
 Nagar Mahapalika Colony, Dada Nagar,  
 Kanpur presently employed as UDC, Bill Group  
 Ordnance Factory, Kalpi Road, Kanpur.

... Applicant

( By Adv: Shri M.K.Upadhyia)

Versus

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

... Respondents

(By Adv: Shri Amit Sthalekar)

O R D E R(Oral)

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

By this OA u/s 19 of A.T.Act 1985 the applicant has challenged the order of punishment dated 17.3.1993 by which, ~~by~~ penalty of reduction of pay by two stages from 1760-1680 in the time scale of pay of 1200-30-1560-EB-40-2040 for a period of one year with cumulative effect, has been awarded. The charge against the applicant was that he committed a costing error of Rs.1000/- on page 20 of Cash Book for the Month of March 1987 in payment side by not adding in the cash column to counter check the total arrived at, by adding the individual heads of expenditure resulting in

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carrying over/holding over of excess cash of Rs.1000/- for over 7 months i.e. from 10.3.87 to 12.10.87 unauthorisedly in violation of cash drill procedure without bringing to the notice of higher authorities which amounts to negligence of duty and malafide intention on the part of the applicant.

Another charge against the applicant was relating to same action that he indulged in overwriting to cover up the mistake. The aforesaid order was upheld in appeal by order dated 22.4.1994.

The learned counsel for the applicant has submitted that the amount of Rs.1000/- continued to remain in the chest through out this period and it was never taken away by the applicant and there was no intention to misappropriate the amount. It was an human error of accounting and the punishment awarded for the mistake is not commensurate and requires interference by this Tribunal in the interest of justice.

Shri Amit Sthalekar learned counsel appearing for the respondents, on the other hand, submitted that the punishment awarded ~~is~~ in the facts and circumstances of the case, is justified and calls for no interference.

We have considered the submissions of the counsel for the parties and have gone through the impugned orders dated 17.3.1992(Annexure 1) and the appellate order dated 22.4.1994. It is not disputed that Enquiry officer exonerated the applicant by submitting his report dated 31.8.1992. Regarding article 1, the finding of the Enquiry officer was to the following effect:

"Documentary as well as oral evidence has revealed that relentless efforts were made by all the staff with the cashier to detect



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the mistake and there was no pecuniary benefit to any of the staff including the accused govt. servant as the hold over Rs sum was kept in the chest of the cash office itself."

Regarding the second charge the conclusion was as under:-

" Oral as well as documentary evidence reveals that the practice of getting counter signature of cash officer on all correction entries in the cash book as per cash drill procedure was not at all existing prior to this case and in the past, the audit party had not raised any objection on this account. As such, this lapse is a system failure and not because of malafide intention on the part of any individual."

The Disciplinary Authority however, after serving a memo of disagreement on the applicant passed the punishment order. In our opinion, in the facts and circumstances of the case the punishment awarded is harsh. Though we do not intend to interfere with the finding by which the charge has been found proved but the ends of justice required that the punishment awarded of reduction in salary, should be made non cumulative.

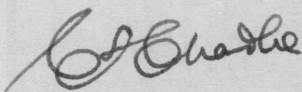
The OA is accordingly partly allowed. The order of punishment dated 17.3.93 and the appellate order dated 22.4.94 <sup>are</sup> ~~is~~ modified to the extent that <sup>through</sup> the punishment awarded is maintained but it shall not be with cumulative effect and the order <sup>shall</sup> stand

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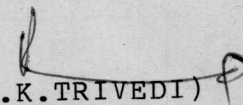
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modified to this extent. However, there will be no order as to costs.



(C.S.CHADHA)  
MEMBER(A)



( R.R.K.TRIVEDI )  
VICE CHAIRMAN

Dated: 02.11.2001

Uv/