

RESERVED

THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

ALLAHABAD

Allanabad : Dated this 5th day of May, 2000

Original Application No. 66 of 1993

Distt : Kanpur

CURAM :-

Hon'ble Mr. S.K.I Naqvi, J.M.

Hon'ble Mr. M.P. Singh, A.M.

R.P. Gangwar
Son of Sri Late L.R. Gangwar,
Resident of C/o Sri D.S. Gangwar,
Q.No. 6/6, Juhu Lal Colony,
Kanpur.

(Sri P.K. Disaria, /Sri Shesh Kumar, Advocates)

..... Applicant

Versus

1. Union of India, through Secy
Ministry of Defence, New Delhi.
2. General Manager, Ordnance Equipment Factories,
Kanpur.
3. Asst. Director General/
Appellate Authority, Ordnance Factories,
Group Headquarters,
Kanpur.
4. Dr. S.P. Rai Chaudhary, P.M.U.
Combined U & N.C. Parachute Factories Hospital,
Kanpur.

(Km. Sadhna Srivastava, Advocate) Respondents

O R D E R

By Hon'ble Mr. M.P. Singh, A.M.

The applicant has challenged the order dated 29-10-1991 passed by the General Manager Ordnance Equipment Factory, Kanpur (Respondent No.2) and the order dated 8-9-1992 passed by the Asst. Director General/ Appellate Authority, Ordnance Factories, Kanpur (Respondent No.3).

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2. The case of the applicant is that he was orally asked by Sri S.P. Rai Chaudhary, the P.M.O. on 21-12-90 to deliver some medicine in M.L. Chest Hospital, Kanpur. While taking these medicines for delivery in the M.L. Chest Hospital, Kanpur, he was stopped and checked by a person on the gate. According to him, he was duty bound to carry out the oral instructions of his superior. However, on 22-12-1990 he was suspended by respondent no.2 (General Manager) under Rule 10 of CCS(CCA) Rules, 1965. He was served a charge sheet dated 14-1-1991 and an enquiry was instituted against him levelling serious charge of theft. After receiving the enquiry report the respondents vide order dated 29-10-1991 ordered punishment of compulsory retirement. It has been alleged that he was not given the documents required by him for his defence. He was also not afforded a reasonable opportunity of hearing. Against the aforesaid order dated 29-10-1991 an Appeal was filed by him before the Addl. Director General, Ordnance Factories. The Appellate Authority rejected his Appeal without appreciating the facts and circumstances of the case on 8-9-1992. Aggrieved by this, he has filed this S.A. seeking a direction to set aside the order of compulsory retirement dated 29-10-1991 passed by the respondent no.2 and the order dated 8-09-1992 passed by respondent no.3. He has also sought a direction to the respondents to treat the applicant in continuous service.

3. The respondents in their reply have stated that the applicant was apprehended by the security staff when he was leaving the Hospital on his moped TVS. During search much quantity of medicines belonging to Combined hospital were recovered from the possession of

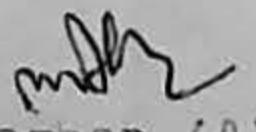
the applicant, as he was carrying out stealthily. Necessary disciplinary proceedings were initiated against the applicant for misconduct and stealing the Government property. He was provided with full, fair, proper and reasonable opportunity to defend the case. The charges levelled against him were held proved. The allegations made against the P.M.O Sri S.P. Rai Chaudhary, are baseless and are not supported with records. After considering the findings of the report of the Inquiry Officer as well as other connected records including the point raised in the representation dated 17-9-1991 submitted by the applicant, the disciplinary authority imposed the penalty of compulsory retirement from service vide its order dated 29-10-1991. The Appeal preferred by the applicant to the Addl. Director General of Factories was also rejected by him by passing a speaking order.

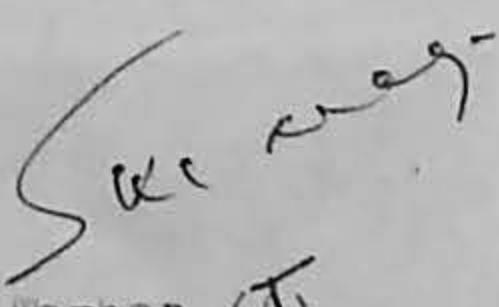
4. Heard counsel for both the parties at length and perused the pleadings on record carefully.

5. It is seen from the proceedings of the enquiry report that the applicant has admitted that certain medicines as alleged in the charge sheet were recovered from him. He has also admitted that medicines alleged to have been stolen by the impugned order were recovered from him. On the question as to whether the P.M.O has issued oral order on earlier occasions to get these medicines to M.L. Chest Hospital, Kanpur, he has replied in negative. The P.M.O. Sri S.P. Rai Chaudhary as filed an affidavit to the effect that the allegations made by the applicant against him are completely false, fabricated and concocted wilfully to tarnish his image in the eyes of the management and also in the society.

According to him the applicant was caught red handed by the Security Staff while taking out much quantity of medicines. The Combined Hospital is an integral part of the Ordnance Equipment Factory, Kanpur. As per rules/regulations regarding security of material, even a single pin cannot pass out of the premises without specific authority and proper documentation. On 21-12-1990 there was no specific authority nor was any requisition from M.L. Chest Hospital, Kanpur to supply medicines. It is ~~is~~ not in dispute that the applicant was caught red handed by the Security Guard while taking medicines out of the Hospital. The punishment of compulsory retirement has been passed by the disciplinary authority after taking into consideration the findings of the enquiry report. This Tribunal cannot sit in Appeal over the findings of the disciplinary authority for awarding punishment. In the facts and circumstances of the case, there ~~are~~ no sufficient ground to interfere with the termination order passed by the respondent no.2.

6. In the light of the above discussions, the OA is dismissed being devoid of merit. There shall be no order as to costs.


Member (A)


Member (B)

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