

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 17TH DAY OF OCTOBER, 2000

Original Application No.1053 of 1993

CORAM:

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

HON.MR.S.DAYAL, MEMBER(A)

Man Mohan Singh, son of Shri Ram Singh  
R/o 41, Orchha Road, Jhansi Cantonment  
Jhansi.

... Applicant

(BY Adv: Shri M.P.Gupta)

Versus

1. The Union of India through  
The Secretary, Ministry of Defence  
Government of India, New Delhi- 110011
2. Chief Engineer, Engineers Branch,  
HQ.Central Command,Lucknow

... Respondents

(By Adv: Shri S.C.Tripathi)

O R D E R(Oral)

(By Hon.Mr.Justice R.R.R.K.Trivedi,V.C.)

Applicant Man Mohan Singh was serving as UDC in the office of Commander Works Engineer(P) Jhansi. He was served the Memorandum of charges alleging that he absented from duty without leave and he failed to join the duty at Maharajpur on 28.6.1989. The applicant though submitted his reply, however he failed to appear before the Enquiry officer on the date of hearing on account of his illness as stated by the learned counsel for the applicant. The Enquiry officer submitted his report on 10.6.1991 and gave opinion that the charges against the applicant are proved. The Chief Engineer who was disciplinary authority in this case agreed with the report of the Enquiry officer imposed the penalty of compulsory retirement of the applicant on 10.12.1992. Aggrieved by the order of punishment applicant filed appeal on 28.12.1992 which was within time. However, the appeal was addressed to the Addl. Director General of Staff Duties

General Staff Branch Army Head Quarters. This appeal was not entertained and returned on 10.3.1993 on the ground that it was addressed to a wrong authority though it should have been addressed to the Engineer in Chief of the Head quarter. In the order it was also stated that the applicant may prefer the review before Vice Chief of Army Staff due to <sup>✓ The fact that this appeal shall be, if he is aggrieved.</sup> time barred, ~~if feels again~~. After this order dated 10.3.1993 applicant again filed appeal addressed to Engineer in Chief Branch on 29.3.1993. he also made an application for condoning delay in filing appeal. He also requested that in case it cannot be treated as appeal it may be treated as revision under Rule 29 of the CCS(CCA) Appeal Rules 1969. This appeal was also returned by order dated 25.5.1993 saying that it is not correctly addressed to Vice Chief of Army Staff who is the Revising Authority. It was said that the applicant may be directed to submit a revision petition under Rule 29 addressing to Vice Chief of Army Staff. Aggrieved by the aforesaid orders applicant has approached this Tribunal u/s 19 of the A.T.Act. After hearing counsel for the parties at length we are of the opinion that authorities in this case have denied the right of appeal to the applicant on hypertechnical grounds. We have perused the order of punishment dated 10.12.1992. From perusal of the order it is clear that the applicant was not advised that he may file appeal and <sup>✓</sup> ~~as to~~ before which authority. It is well known that all the persons serving in the department do not keep themselves well versed with the rules governing their services. In the absence of such information in the order of punishment, which is normally done, applicant though filed appeal but it was addressed to a wrong authority though in the Headquarter. It would not <sup>✓ have been</sup> ~~happen~~ difficult for the authority to transfer this appeal to the appropriate authority or the applicant could be summoned to correct his memorandum of appeal. Subsequently appeal was transferred to the right authority but it was sent back to the applicant <sup>✓ without deciding</sup> ~~on~~ merits. It was also stated that now appeal of the applicant is time barred and he may file a review application. Thus, the applicant was also mislead by the authorities. It is strange that

high ranking authorities of this level may deal with their subordinate employees in this fashion. Even the appeal filed on the second occasion though was addressed to the appropriate authority was not entertained and the applicant was asked to file a revision addressed to the Vice Chief of Army Staff. The approach of the authorities in the matter cannot be appreciated by any reasonable person. Lot of time has been wasted and the applicant could not get justice expeditiously. After 8 years <sup>we have</sup> ~~he had~~ no option but to send the appeal again to the Appellate Authority to decide it on merits in accordance with law.

For the reasons stated above, this application is allowed in part. Orders dated 10.3.1993(Annexure 8) and order dated 25.5.1993 are quashed. The memorandum of appeals filed by the applicant on 28.12.1992(Annexure 7) and Memorandum of appeal filed on 29.3.1993 alongwith delay condonation application and the memorandum of appeal filed dated 30.3.1993 shall now be placed before the concerned Engineer in Chief who is Appellate Authority in this case. The appeal shall be decided on merits, treating them to have been filed in time, within a period of four months from the date a copy of this order is filed before the Appellate Authority Engineer in Chief, Head Quarter Central Command, Lucknow. The order may be placed before the Secretary, Ministry of Defence, Government of India, New Delhi.

We also recommend to the Secretary, Ministry of Defence, Government of India, New Delhi that instructions may be given to the authorities to avoid deciding of appeal filed by the employees on aforesaid technical grounds. There will be no order as to costs.

*S. Bui*  
MEMBER(A)

*Vice Chairman*  
VICE CHAIRMAN

Dated: 17.10.2000

Uv/