

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 29TH DAY OF MAY, 2002

Original Application No. 175 of 1994

CORAM:

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

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

Brijenda Swaroop Nigam,  
Fitter General(H.S.I) T.No.1141/GC/FGK  
R/o G-1/572 Armapur Estate,  
Kanpur.

...Applicant

(By Adv: Shri R.K.Nigam)

Versus

1. The Union of India  
Through the Sefcretary  
Ministry of Defence  
(Deptt.of Defence Production),  
New Delhi.
2. The Chairman, ordnance  
Factories Board, 10-A,  
Auckland Road, Calcutta.
3. The General Manager,  
Field Gun Factory,  
Kanpur.

... Respondents

(By Adv: Shri Ashok Mohiley)

O R D E R(Oral)

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

By this OA applicant has challenged the order of punishment dated 27.5.1993 by which Disciplinary Authority awarded punishment <sup>of</sup> ~~and~~ reduction of pay by two stages from Rs 1530/- to 1470/- in the time scale of pay Rs 1320-30-1560-EB-40-2040 for a period of one year with cumulative effect w.e.f. 27.5.1993. This order was challenged in appeal. In appeal the punishment was modified and Appellate Authority reduced the pay by one stage for one year with cumulative effect by order dated 3.2.1994.



Shri R.K.Nigam learned counsel for the applicant has submitted that Enquiry officer while submitting his report pointed out certain circumstances which ~~has~~<sup>are</sup> not been considered either by Disciplinary Authority or by Appellate Authority. The circumstances are as narrated in the inquiry report are as under:-

- i) Both the drills were used ones and worn out.  
One of them has more or less exhausted ~~which is for~~<sup>the</sup> life. Another drill has served of his 50% approximately useful life.
- ii) These drills are never required by the individual in his day-today work as confirmed by Incharge G.C.also
- iii) Incharge G.C. had not receive any report ~~from~~<sup>of</sup> any worker or godown regarding loss/missing of such drills prior or after this incident.
- iv) Drills were found concealed in a place in the scooter easily accessibe to any person.
- v) Security staff was pre-informed by some unknown persons stating that some material is being taken out of the factory through scooter No.MTH 9719 DSC personnel asked ~~research~~<sup>investigation</sup> of the scooter by Security staff then only material was found.
- vi) It is seen that the condition as well as money value of the material does not seem to be of any gain to the individual outside the factory.

These circumstances were very important and ought to have been considered by the Disciplinary Authority or by the Appellate Authority. Unfortunately, these facts have been ignored. If the aforesaid facts are taken into consideration, the possibility that somebody wanted to harm applicant ~~thus concealed the said item~~<sup>in his scooter and informant informed the security staff</sup> could not

2 ~~Can not be ruled out~~  
to harm applicant. ~~Thus~~<sup>He</sup>, concealed the said item in his scooter and then informed the Sefcurity staff, could not be ruled out. The authority is then under obligation to consider it with other facts and circumstanc-es and assess the possibility of applicant committing such misconduct on the basis of the pre-ponderance of the material evidence. In our opinion, it is a fit case which should be remitted to Appellate Authority again for deciding the appeal of the applicant afresh in the light of these observations.

The OA is accordingly partly allowed. The order of the Appellate Authority dated 27.5.1993 is quashed. The appeal of the applicant shall stand restored and shall be considered and decided in the light of observations made above within a period of three months from the date a copy of this order is filed. There will be no order as to costs.



MEMBER(A)



VICE CHAIRMAN

Dated: 29th may, 2002

Uv/