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Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1594 of 1994

Allahabad this the 06th day of May, 2002

Hon'ble Mr.C.S. Chadha, Member (A)
Hon'ble Mr.A.K. Bhatnagar, Member (J)

K.L. Jangde Son of Late Sri G.D. Jangde, Ex-Civilian Motor Driver Grade I(P.NO.703/63) Small Arms Factory, Kanpur, Resident of Village Parsada, Post Office Palauch Via Mandi Masanch, District Raipur(M.P.)

Applicant

By Advocate Shri H.S. Srivastava

Versus

1. The Union of India, Through the Secretary, Ministry of Defence, Department of Defence Production, New Delhi.

2. The Chairman, Ordnance Factories Board, 10-A, Auckland Road, Calcutta-700001

3. The General Manager, Small Arms Factory, Kalpi Road, Kanpur.

Respondents

By Advocate Shri Ashok Mohiley

O R D E R (O R A L)

By Hon'ble Mr.C.S. Chadha, Member (A)

The applicant was working as a Driver in the M.T. Section of Small Arms Factory, Kanpur when on 01.02.91 while leaving the factory to get

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the meals Of D.S.C. Personnel, he was stopped at the gate. His vehicle was searched and one sheet of steel(griddle)in the shape of Tava, which could be used for making Chapatis was ceased from him. An inquiry was conducted , in which he was found guilty and awarded the punishment of compulsory retirement vide order dated 23.09.93. His appeal against the said order was also rejected on 08.07.94, therefore, he has filed this O.A.

2. The major objections raised by the learned counsel for the applicant are the following;

(i) That he was asked to take a vehicle for doing the necessary work which did not belong to the Army and he did not check the vehicle due to hurry, which resulted in seizure of one steel griddle in the shape of Tava, and therefore, he claims that he has been framed in the case.

(ii) That he has been charged for attempting theft of a Tava, which according to the Storekeeper is not a part of stock of Small Arms Factory and has never been received as such in the factory.

(iii) The documents asked for by the applicant were not given to him and defence witnesses were also not examined as only some of them were examined.

3. As far as the objection of the applicant that he did not check the vehicle, we find from the inquiry report(annexure A-11),which is quite a detailed one, that"the duties of a driver include the thorough checking of the vehicle before it is taken out so that no unauthorised material could go out. Shri S.C.Girdhar,

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I/C MT, while appearing as defence witness and Sri Ram Chandra, CMD, as prosecution witness have made statements in support of this practice". It is, therefore, clear that even the defence witnesses produced by the applicant, state that it was the duty of Driver to check the vehicle before he takes it for out of the factory. Merely saying that he did not check the vehicle, does not absolve for the applicant of his responsibility. We find no merit in the argument that somebody-else had hidden the sheet.

4. The argument of the applicant that since the Small Arms Factory did not have Tava in its Store the allegation against him is false, is quite unjustified, because the seizure memo and the charge sheet clearly state that the applicant was found guilty of hiding and taking away a griddle in the shape of Tava used for baking the bread. The Small Arms Factory may not be keeping in its Store & a Tava but certainly it can be a steel sheet & cut later in the shape of Tava. Apparently the applicant is accused of cutting such a piece from a steel sheet and hiding the same with an intention to use the same as Tava. Therefore, we do not find any force for in this argument also. He was only removing a piece of steel and not a readymade Tava.

5. Learned counsel for the applicant also argued at length that the Tava was not seized and produced as evidence in the inquiry. He claimed that no such product was ever seized. We find from the inquiry report that the seizure memo which mentioned

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the seizure of the said piece of steel was duly signed by the applicant. Counsel for the applicant has argued at length that two pieces of steel were shown to be recovered, out of which only one was recovered in his presence. In our opinion, seizure of one piece is sufficient to establish the charge of attempting theft from the factory.

6. Learned counsel for the applicant has argued that 16 documents were asked for but only 6 agreed to be given, out of which ultimately 5 have been given to the applicant and therefore prejudice was caused to the defence of the applicant. Non-production of any document can be considered to be prejudicial to the defence of the applicant only if he can show how it caused prejudice and what was the material fact that was sought to be proved by that document . Learned counsel for the respondents has shown before us that the Inquiry Officer recorded the reasons for not giving certain documents which the applicant accepted without any demur. Same is the case when defence witnesses which were also not examined in totality because of the reasons recorded by the Inquiry Officer and never objected to by the delinquent official at the time of inquiry. We, therefore, find that non-production of certain documents which were not relevant to the whole inquiry did not prejudice the inquiry against the applicant. In fact we feel that a mountain has been made of a molehill, as the issue in the inquiry was very simple. The seizure of one piece of steel in the shape of Tawa is all that was required to be proved. We find that the Inquiry Officer has..pg. 5/

gone at the great length to prove this charge, whereas merely the seizure memo proving that the applicant was taking out that steel piece was enough to prove the guilt of the applicant.

7. In view of the circumstances discussed above, we find that a detailed inquiry beyond the requirement of the case was conducted just to prove the attempted theft of a small piece of steel.

8. Learned counsel for the applicant has finally argued that the punishment awarded is not commensurate with the proved misdemeanour. On the contrary learned counsel for the respondents states that the spot where the incident took place is a defence factory, where very sensitive materials are kept and that is why such a tough attitude is taken. We are in agreement with the submissions of learned counsel for the respondents, and we feel that in such cases, no leniency should be shown. We are surprised to see that for the theft of a small piece of steel, the Inquiry Officer has taken great pain to prove the same. We therefore, find no merit in the case, which is dismissed. No order as to costs.

Member (J) Member (A)

/M.M./