

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 07th day of March 2002

Original Application no. 1925 of 1994.

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.
Hon'ble Maj Gen K.K. Srivastava, A.M.

1. Smt. Chitamani Srivastava,
widow of Late J.P. Srivastava
2. Ashok Kumar Srivastava
3. Arun Kumar Srivastava
4. Arvind Kumar Srivastava
5. Amit Kumar Srivastava
6. Abhishek Kumar Srivastava
7. Smt. Sobha Srivastava, W/o Ajai Srivastava
8. Smt. Rekha Srivastava, W/o S. Srivastava
9. Smt. Sunita Srivastava, W/o Manmohan Srivastava

All sons of Late Jawahar Pal Srivastava.

All daughters of late J.P. Srivastava,
All R/o 124/37 D Block Kidwai Nagar, Kanpur.

.. Applicants

By Adv : Sri N.K. Nair & Sri M.K. Updhayaya

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. Deputy Director General, Ordnance Factories, OCF,
Group Hd. Qrs. G.T. Road, Kanpur.
4. General Manager, Ordnance Equipment Factory,
Kanpur.

... Respondents

By Adv : Sri S.C. Tri-pathi & Sri A. Sthalekar

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O R D E R

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

By this OA, filed under section 19 of the A.T. Act, 1985, the applicant has challenged the order of punishment dated 8.11.1993 by which the applicant has been awarded penalty of compulsory retirement on conclusion of disciplinary proceedings. The order was challenged in appeal which has been dismissed by order dated 17.2.1994 (Ann 2) which has also been challenged.

2. The facts of the case are that the applicant was served with a memo of charge dated 16.12.1991 with the allegation that he was found unauthorised possession of Govt. material i.e. 500 gm of blue paint in a Amul Spray Milk Powder container on 08.10.1991 at 5.50pm when he was passing out from the factory through staff gate. The second charge was that he attempt theft of Govt. material i.e. Sky blue paint on the aforesaid date and time. The applicant filed his reply on 12.1.1992. He was serving as Chargeman Grade I in Ordnance Equipment Factory, Kanpur. The enquiry as usual proceeded and the report was submitted on 17.3.1992. The applicant filed his representation against the report of the enquiry officer on 4.6.1993. The disciplinary authority however, agreed with the report of enquiry officer and passed the order of compulsory retirement as stated above, which has been confirmed in appeal.

3. Sri M.K. Updhayaya, learned counsel for the applicant has challenged the finding on the ground that the alleged paint was purchased by the applicant from Tiwari Hardware Paints, Karachi Khana, Kanpur, vide cash memo no. 4309 dated 08.10.1991 against cash payment and the applicant had not committed any theft. However, defence

of the applicant has been ignored in arbitrary manner.

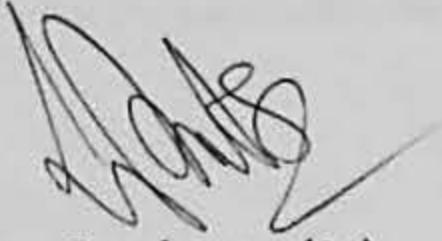
Now the question is whether the ~~plea~~ of the applicant that he purchased it from the open market could be accepted. If the applicant was already possessing the material he was under legal obligation to inform the gatekeeper while entering the factory that he is in possession of such material or to deposit the same with the gatekeeper. No such action or precaution was taken by the applicant. It is also stated that the applicant did not produce cash memo when he was caught at the gate along with blue paint in Amul Spray Milk Powder container. The applicant has also not examined that shopkeeper in his defence that any such purchase was made by him on the date of occurrence. In view of the aforesaid facts the plea of the applicant ~~has~~ rightly not been accepted. Lastly, the learned counsel for the applicant submitted that the punishment awarded is highly excessive and not commensurate to the charge found proved against the applicant.

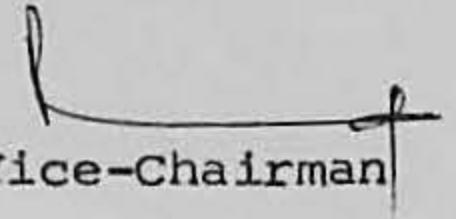
4. Sri A. Sthalekar, learned counsel for the respondents on the other hand submitted that misconduct ~~of~~ ^{or} theft or attempted theft, is very serious involving moral turpitude, ^{and} such persons rendered himself ~~unfit~~ to be retained in the organisation. We ~~are~~ agreed with the submission made by learned counsel for the respondents that an employee against whom the ^{Charge of} theft is proved, rendered himself unfit to be retain in service. The order of compulsory retirement, in our opinion is just and lenient view taken by the authorities, so that the applicant may not be deprived of the pension.

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5. In the circumstances we do not find any error in the order. The OA has no merit and is rejected.

6. There shall be no order as to costs.


Member (A)


Vice-Chairman

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