

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH,
ALLAHABAD

Allahabad, this the 10th day of September, 2002

ORIGINAL APPLICATION No. 53 of 1994

Hon'ble Mr. Justice R.R.K.Trivedi, Vice-Chairman
Hon'ble Mr. S. Dayal, Member (A)

Smt. Tara Devi, wife of Late Uma Shankar Singh,
resident of LIG 1372, Avas Vikas No. Panki Kalyanpur,
Kanpur Nagar.

.....Applicant

By Advocate Shri Vikram Nath

V E R S U S

1. Ministry of Defence, through it's Secretary, New Delhi.
2. Director General Ordnance Factories, Ordnance Factory Board, 10-A, Ackland Road, Calcutta.
3. General Manager, Small Arms Factory, Kanpur.
4. Shri Mahesh Gupta, Works Manager, Ordnance Equipment Factory, Kanpur. (Enquiry Officer).

.....Respondents

By Advocate Shri Ashok Mohiley

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Hon'ble Mr. S.Dayal, Member (A)

Shri Vikram Nath, learned counsel for the applicant and Shri Ashok Mohiley, learned counsel for the respondents.

2. This application has been filed for setting aside the impugned order of punishment dated 04.01.92, and Appellate order dated 16.09.92 passed by respondents No. 3 & 2 respectively. A prayer has also been made to set aside the order dated 25.06.93 by which the applicant's representation against wrong fixation of pay has been rejected.

3. The applicant was subjected to departmental enquiry under rule 14 of CCS(CCA) Rules 1965, for organising and staging demonstration in front of General Manager's Office on 06.04.90 and indulging in subversive acts of indiscipline. He was also charged with entering forcibly into the office of Shri K.K. Sodhi, Joint General Manager on the same day and manhandled/assaulted Shri Sodhi and created rowdyism. The applicant was charged with again manhandling Shri Sodhi on 06.04.90 and refusing to receive the suspension order at his residence on 10.04.90. On denial of the charges a departmental enquiry was initiated ~~in respect~~ against the applicant. The enquiry officer held 3 of the 4 charges as established. The Disciplinary Authority imposed the following punishment on the applicant.

"Now, therefore, it is ordered that the pay of Shri Uma Shanker Singh, T.No.4/B, Mach(Skilled), SAF, Kanpur be reduced from Rs.1150/-PM to Rs.950/-PM i.e. minimum of the scale with immediate effect in the time scale of pay of Rs.950-20-1150-EB-25-1500/- for a period of one year with cumulative effect as a disciplinary measure. It is further, directed that Shri Uma Shanker Singh, T.No.4/B will earn increment of pay after twelve months qualifying service."

The appeal filed by the applicant against the punishment imposed was dismissed.

4. The applicant has raised several issues in the application for seeking setting aside of the order of punishment and order passed in appeal. However, it is not denied that the witnesses who appeared before the enquiry officer had deposed that the Joint General Manager was subjected to manhandling and rude behaviour.

5. The arguments of Shri Vikram Nath, learned counsel for the applicant and Shri Ashok Mohiley, learned counsel for the respondents were heard.

6. Since, the mis-conduct for which the applicant was proceeded against has been established in the enquiry and the order of punishment has been passed on that basis, we do not find any error in either the proceedings

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conducted against the applicant or the punishment imposed.

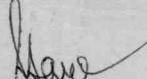
7. However, the learned counsel for the applicant raised the issue that the applicant was subjected to reduction in pay only for one year and thereafter his pay should have been restored. The applicant was reduced from Rs.1150/- to Rs.950 and after one year, his pay would again be restored to the level of Rs.1150/-. The applicant was to earn no increment during the period of reduction. Therefore, the next increment would be available to the applicant, only after passage of one year from the date, the pay of the applicant was fixed to the level of Rs.1150/-PM.

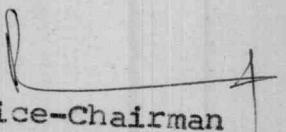
8. The learned counsel for the respondents contended that because the pay was reduced for one year with cumulative effect, the applicant should have started at the level of Rs.950/- after one year. In advancing this argument, the learned counsel for the respondents relied upon endorsement for sending copy, contained at the bottom of order dated 04.01.92 containing a remark that the applicant will start to earn increment at the minimum of the scale. This remark is not a part of order dated 04.01.92 and seems to be a result of clerical work of endorsing copies to various branches. We are clear that the period of reduction was for one year and the applicant could not be subjected to reduction for a period beyond that. Therefore, the rejection of representation of the applicant by order dated 25.06.93 has to be set aside. We direct the respondents to fix the pay of the applicant at the level of Rs.1150/- from 29.01.93 and consider him for next increment w.e.f. 29.01.94. The applicant has died. The amount which is due to the applicant along with other financial benefits including family pension may be given to his legal

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heirs. This shall be complied within 4 months from the date of receipt of a copy of this order.

9. No order as to costs.


Member (A)


Vice-Chairman

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