

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 7TH DAY OF MAY, 2002

Original Application No.56 of 1994

CORAM:

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

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

V.P.Dabral, aged about 53 years  
Son of Late R.P.Dabrall, resident  
of village and post office  
Bhauwala, district Dehradun.

... Applicant

(By Adv: shri Sudhir Agrawal)

versus

1. Union of India through Secretary  
Ministry of Defence, New Delhi.
2. Lt.General/Commandant  
Indian Military Academy,  
Dehradun
3. The President of India through  
Secretary, Ministry of Defence  
New Delhi.

... Respondents

(By Adv: Shri G.R.Gupta)

O R D E R(Oral)

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

By this OA applicant has challenged the order of punishment dated 20.12.1993 by which he was compulsorily retired from service on conclusion of the disciplinary proceedings.

The facts in short are that applicant at the relevant time was serving in Indian Military Academy, Dehradun as Lower Division Clerk. He was served with a memo of charge dated 21.3.1986 with the allegation that the applicant was responsible for <sup>the tillage of a</sup> two Opto Blankets. Applicant filed his reply and denied the charge. The Inquiry officer was appointed who after conclusion of the inquiry submitted his report dated 28.10.1986. Disciplinary Authority agreed with the


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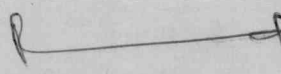
same and passed the order of punishment as stated above. It is also stated that against the order of punishment applicant filed appeal on 23.12.1993. The memo of appeal is (Annexure 26). However, as the appeal was not decided, this OA was filed on 13.1.1994. Learned counsel for the applicant has submitted that before filing his reply applicant requested for certain documents but the necessary documents were not supplied. It is also submitted that the record was manipulated so as to show that the necessary documents were supplied to the applicant and he was also allowed to inspect certain documents. For this purpose learned counsel for the applicant placed before us the proceedings before the Inquiry officer particularly of the date 24.10.1986. There is a note at the bottom of the page which reads that the accused has been afforded full opportunity to inspect the documents pertaining to the charge and also he has been given full opportunity to see and read every page of the manuscript copy of the proceedings except recommendations of the enquiry officer. Note B states that the same has been noticed in his recorded statement which is enclosed as Appendix 'F' to the proceedings. Appendix 'F' has been filed as (Annexure 12 to the CA) which is of the date of 25.10.1986 with the help of the aforesaid two documents learned counsel has submitted that the record was manipulated so as to fill up the lacunas of non supply of necessary documents to the applicant which were necessary for his defence. Applicant has also placed before us the impugned order dated 20.12.1993(Annexure 1). On perusal of this order we noticed that Disciplinary Authority has not recorded any reasons for not accepting the defence of the applicant. In substance, the order which runs for four pages, <sup>or</sup> ~~but~~ it remains a non speaking order as the charge levelled against the applicant, evidence adduced in support thereof and the defence of the applicant have not been discussed and findings have not been recorded. Applicant filed appeal against the aforesaid order. Memo of appeal is (Annexure 26 to the OA). Unfortunately, appeal has also not been decided and it is still

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pending. In the above facts and circumstances, the position is that before this Tribunal findings recorded by the departmental authorities are not available. Important facts as submitted by the learned counsel for the applicant regarding supply of the documents also prima facie appears to be doubtful. Considering all these facts and circumstances, in our opinion, the ends of justice will be better served if we dispose of this OA directing the Appellate Authority to decide the appeal of the applicant by a reasoned order in accordance with law and in the light of observations made above within a specified time.

For the reasons stated above, this OA is disposed of finally with the direction to the Appellate Authority to consider and decide the appeal of the applicant in accordance with law and in the light of the observations made above within a period of six months from the date a copy of the order is filed. We also make it clear that it shall be open for the applicant to file an additional memo of appeal for raising such grounds before the Appellate Authority which have been raised in this OA. There will be no order as to costs.

  
MEMBER (A)

  
VICE CHAIRMAN

Dated: 7th of May, 2002

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