

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 5th day of March, 2002.

Original Application No. 604 of 1995.

CORAM:-

Hon'ble Mr. Justice RRK Trivedi, V.C.

Hon'ble Maj Gen KK Srivastava, A.M.

Chandra Maul Verma,  
Son of Shri Ganesh Prasad Verma,  
Resident of J-53/7, Sahni Colony,  
Tagore Road, Cantt. Kanpur Nagar,

(Sri KC Sinha, Advocate)

. . . . . Applicant

Versus

1. Union of India, through the Secretary,  
Ministry of Defence, New Delhi.
2. Deputy General Manager (SG/PER),  
Ordnance Equipment Factory, Kanpur.
3. General Manager, Ordnance Equipment  
Factory, Kanpur.
4. Addl. Director General, Ordnance Factories,  
Ordnance Equipment Factories, G.T. Road,  
Kanpur-208013.

(Km. Sadhna Srivastava, Advocate)

. . . . . Respondents

O R D E R (O\_r\_a\_l)

By Hon'ble Mr. Justice RRK Trivedi, V.C.

By this OA filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant has challenged the order of punishment dated 13-9-1994 by which the disciplinary authority awarded penalty of removal from service on conclusion of the disciplinary proceedings. The appeal filed by the applicant was dismissed on 12-1-1995 (Annexure-A-2) which has also been challenged.

2. The facts in short are that the applicant was serving as Tailor Skilled in Ordnance Equipment Factory, Kanpur. He was served with a memo of charge dated 23-7-1993 with the allegation that on 9-6-1993 (night shift) at about 2110 hrs, he tried to enter inside the factory in state of intoxication.





He tried to make forced entry. The applicant was prevented and was sent for medical examination to the Combined Hospital from where he ran away and absconded. The applicant was served the memo of charge in English. He claims that he does not know English Language and he may be supplied Hindi version of the memo of charge. The case of the respondents is that Hindi version of the memo of charge was sent to him by Registered Post on 3-9-1993. It was received back unserved. Then the applicant was handed over memo of charge in Hindi Language on 9-03-1994 when he went to the factory to receive subsistence allowance but he refused to receive the memo of charge in Hindi version. The applicant did not file any explanation for the charges. In spite of the notice of the dates, he did not participate in the enquiry proceedings which went ex parte against him. The Inquiry Officer submitted his report dated 13-10-1993. The disciplinary authority agreed with the report and <sup>awarded</sup> ~~passed~~ the punishment of removal which has been confirmed in appeal.

3. Learned counsel for the applicant has challenged the orders on the ground that as the applicant was not supplied the Hindi version of the memo of charge, he could not file his reply and the enquiry proceedings as well as the impugned order passed against him are liable to be quashed on this ground alone.

4. We have carefully considered the submissions made by the counsel for the parties. The respondents have filed counter reply wherein they have made a categorical statement that the ~~copy of the~~ Hindi version of the memo of charge was sent for service on the applicant by Registered post on 3-9-1993. They have filed a copy of the letter alongwith which the copy was sent but it was received back unserved. They have also asserted that on 9-3-1994 an attempt was made to serve the copy on the applicant when he visited the factory to receive subsistence allowance but he refused

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to accept the same. The case of the applicant is of complete denial. The submissions made by the respondents in the counter reply are supported by documents, which we are inclined to believe.

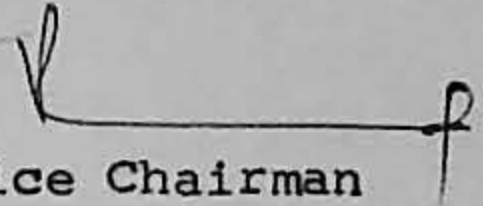
5. Now we have to see whether the applicant has been really prejudiced on this ground or not. It is undisputed that the applicant was served the memo of charge in English version then he demanded Hindi version. He has filed the Memo of Appeal as Annexure-7 to this OA which is in English Language. When this document was put to learned counsel for the applicant, he stated that he may have got it prepared with the help of some other person but no such facts ~~have~~ <sup>have</sup> been mentioned in the Memo of Appeal that this document was prepared by somebody else on behalf of the applicant. Thus assuming that the reply of the learned counsel for the applicant is correct that he could give assistance in drafting the Memo of Appeal, he could very <sup>well</sup> ~~much~~ seek such assistance to file explanation to the <sup>charge</sup> ~~charge~~ which was admittedly served in English Language. For the above reasons, in our opinion, the applicant has not suffered any prejudice <sup>and</sup> ~~when~~ he pleads <sup>ignorance</sup> ~~of the~~ language, ~~it is~~ only to avoid proceedings and to prolong the same. As there was no denial on part of the applicant, the charges have been found proved and punishment has been awarded.

6. Lastly learned counsel for the applicant submitted that even if the charges are assumed to be proved, the punishment awarded is highly excessive and not commensurate with the charges. We have considered this aspect of the case also. However, as the applicant failed to participate in the proceedings and failed to explain his conduct in any manner, it is difficult to say that the punishment awarded is excessive. The Ordnance Equipment Factory is engaged in very sensitive matters connected with the defence of the country. It may also be noticed that prior to this incident

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the applicant was awarded penalty seven times. Thus the <sup>at</sup> previous<sup>1</sup>  
conduct of the applicant <sup>also</sup> ~~does not~~ show that he is entitled  
for the relief. The application has no merit and is  
dismissed accordingly. There shall be no order as to  
costs.

  
Member (A)

  
Vice Chairman

Dube/