

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Original Application 1206 of 2000

Allahabad: This the 25<sup>th</sup> day of November 2004

HON'BLE MRS. MEERA CHHIBBER, MEMBER (J) *18*  
HON'BLE MRS.ROLI SRIVASTAVA, MEMBER (A) *18*

Tarni Prasad,  
S/o Shri Jhanki Sah,  
Resident of 73/250 Ratanpur,  
Colony, Paniki Power House,  
Kanpur.

...Applicant.

( By Adv: Shri R.Pandey)

Versus

1. Union of India  
through the Secretary Ministry of  
Defence, New Delhi - 11.

2. Chairman, Appellate Authority  
Ordnance Factory Board/  
D.G.O.F. 10-A Shaheed Khudi Ram  
Bose Marg Calcutta-1.

3. Senior General Manager  
Ordnance Factory,  
Kanpur.

....Respondents.

(By Adv. : Shri M.B.Singh)

*B* ...pg2/-

O R D E R

By Hon'ble Mrs. Meera Chhibber, Member(J)

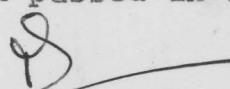
By this O.A. applicant has sought the following relief(s):

- "(i) Quash the impugned order dated 14.8.2000 (Annexure-8) passed by respondent no.2 and the order dated 14.8.1999(Annexure- )passed by respondent no.3;
- (ii) Issue an order or direction to the respondents to treat the petitioner as being continuous service with effect from 14.8.1999 till the date of his superannuation and to further calculate the arrears of salary along with allowances as have been extended to the applicant if he been in regular service and to release the same immediately;
- (iii) Issue such other writ order or direction as this Court may deem fit and proper in the circumstances of the case;
- (iv) Award Costs. "

2. The brief facts, stated by the applicant, are that he was appointed as Civilian Durwan in M.E.S. Garrison Engineer, Cantt., Allahabad on 28.6.1968. He was posted as Durwan in Ordnance Factory, Kanpur on 31.5.1969. He was served with the charge-sheet on 09.04.1998 on the ground that he was absent from duty from his post at about 12.30 hours on 13.3.1998 and he manhandled. Even though he was detailed for duty at Gol Chouraha Post in the Armapur Estate from 7.00 hrs to 17.00 hrs.. He was further charged with the allegation that at about 2.00 p.m. on 13.3.1998 he along with Shri Dasrath Dutt., Shri Jai Singh and Shri N.S.Rautela went to the quarter no. GII/333 of Shri Vijay Shanker Shukla where Shri Dashrath Dutt and Shri Rautela

molested Shri Vijay Shankar Shukla's wife Smt. Madhu Shukla and when Shri Vijay Shankar Shukla objected and asked them to leave his house, Shri Tarni Prasad along with Shri Dashrath Dutt manhandled Shri Shukla before his wife Smt. Madhu Shukla. Similar charge-sheets were given to Shri Dasrath Dutt, Shri Jai Singh and Shri N.S. Rautela also but they admitted their guilt and tendered apology. Therefore, no action was taken against the aforesaid persons and enquiry proceedings against them were dropped. However, in the same incident applicant was given major punishment as vide order dated 14.8.1999, applicant was imposed penalty of compulsory retirement from service (page 17).

3. Applicant has challenged this punishment order on the ground that the alleged incident has taken place at the house of Shri Vijay Shankar Shukla on the occasion of Holi and any private altercation between two persons outside the factory premises cannot be made the basis of the departmental proceeding. He next contended that since the other three persons were let off without many punishments, applicant could not have been discriminated against, therefore, the punishment imposed on him is liable to be quashed and set aside. He further submitted that there was contradiction in the statements of Shri Vijay Shankar Shukla and his wife both inasmuch as the wife stated that applicant had beaten her husband whereas Shri Vijay Shankar Shukla stated that applicant had only got hold of his collar. He further submitted that enquiry is based on conjectures and surmises, therefore, the punishment based on such report is not sustainable in law. He further submitted that punishment given him is too harsh and disproportionate as gravity of charges levelled against applicant and appellate order dated 14.8.2000 has been passed in stereo type manner.



the appellate order is liable to be quashed and set aside.

Counsel for applicant relied on 2001 Vol.10 SCC page 530 and 2002 Vol.2 UPLBEC page 1010.

4. Respondents, on the other hand, have opposed this O.A. They have submitted that applicant had indulged in a very serious misconduct inasmuch as he along with others went to the house of Shri Vijay Shankar Shukla where Shri Dasrath Sri Dutt and N.S. Rautela molested Shri Vijay Shankar Shukla's wife but when Smt. Madhu Shukla and Shri Vijay Shankar Shukla objected to it and asked these people to leave the house, petitioner along with Shri Dasrath Dutt manhandled Shri Shukla before his wife Madhu Shukla. The above act was in violation of C.C.A. Conduct Rules but all the three other persons accepted the charges levelled against them and apologized, accordingly, Disciplinary Authority imposed suitable penalty to those three persons but petitioner did not accept the charge and he had left the post of duty unmanned at Gol Chouraha Post unauthorisedly and mis-behaved with Shri Shukla in his house. The charges were fully proved against him in the enquiry, therefore, Disciplinary Authority rightly imposed penalty of Compulsory retirement from service on applicant. His appeal was duly considered by Appellate Authority while dismissing the same as such there is no irregularity pointed out by the applicant. They have further explained that applicant had been awarded penalties as many as **seven** times in the past ranging from censure to reduction of pay for three times for missing from place of duty and three times for sleeping while on duty. Therefore, it is wrong to suggest the unblamed service record. They have further submitted that it is wrong to suggest that other persons were let off scot free as in case of Shri Jai Singh penalty of reduction of pay by five increments stages for one year with cumulative effect was imposed.

imposed. In case of N.S.Rautela penalty of reduction to the minimum for a period of one year with cumulative effect was imposed and their suspension period was also regularised but applicant did not have the courtesy to apologize or accept the charges, made against him. Therefore, proper enquiry was held wherein full opportunity was given to the applicant but in view of the evidence, which came on record, charges were found to be proved against applicant. Therefore, this case calls for no interference. They have also annexed the acceptance/confession letter dated 12.8.1998 in respect of Shri Jai Singh. They have further submitted that if the Government servant behaves in a fashion, which is unbecoming of government employee, the said mis-conduct even in his private life can be examined under Rule 3(1)(iii) C.C.A. (Conduct) Rules, 1964. Applicant was serving as Durwan and posted for duty at Gol Chouraha of the Factory Estate. He committed the misconduct while on duty by leaving his post unauthorisedly, therefore, naturally he had to be dealt with accordingly. They have, thus, prayed that the O.A. may be dismissed.

5. We have heard both the counsel and perused the pleadings as well. It is admitted by the applicant that Shri Jai Singh was also given identical charge sheet, namely, that he along with other had gone to the house of Shri Vijay Shankar Shukla where they had molested the wife of Shri Vijay Shankar Shukla and misbehaved with Shri Shukla. Shri Jai Singh accepted his guilt or charge in writing by giving a letter dated 12.8.1998 and apologized while assuring the authorities that he would not repeat such a mistake in future(Annexure C.A.-4). This clearly shows that the incident did take place on 13.3.1998 in the house of Shri Shukla. It is also seen from Annexure C.A.-I and C.A.2 that Shri Shukla and his wife Smt. Madhu Shukla



had clearly stated in their statements that how Shri Tarni Prasad had manhandled Shri V.S. Shukla when he asked these people to leave his house. From the said documents it is also seen that full opportunity was given to the applicant to cross examine those witnesses and that every stage the legal procedure was followed in-as-much-as copy of the findings was given to him. He was asked to file his representation and it was only after considering all the facts that penalty was imposed on the applicant.

6. It has repeatedly been held by Hon'ble Supreme Court that in disciplinary matters courts should be interfer in the cases in a routine manner because once there is some evidence on record, it is for the authorities to decide what punishment is to be given to them. In the instant case counsel for the applicant has not been able to point out any irregularity in conducting the enquiry. On the contrary, his main contention was that since four persons were involved in the same incident, applicant could not have been given the stringent punishment than others as that would amount to discrimination. Even though the charge against other three persons was that they had also gone to the house of Shri Shukla out of which two persons had molested the wife of Shri Shukla whereas applicant along with Shri Dashrath Dutt had manhandled Shri Shukla, but from the records it has nowhere come in the evidence that these persons were also on duty and had left their place of posting whereas applicant admittedly was on duty from 7.00hours to 17.00 hours and he had left the post unmanned unauthorisedly, even though he was supposed to work as a security durwan. Therefore, the charge against applicant cannot be compared with the other three persons as in his case there was an added Article of charge against him. Even otherwise whether applicant had actually

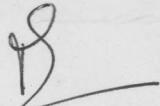


molested the wife of Shri Shukla or not, is not really important. What is important is that he went to the house of Shri Vijay Shankar Shukla along with other three persons out of which two persons molested Smt. Madhu Shukla and when such an act was objected <sup>to</sup> by Shri Vijay Shankar Shukla and his wife, these persons, instead of condemning the other two persons, started manhandling Shri V.S.Shukla, which shows that all the four persons had gone to the house of Shri V.S.Shukla with a pre-determined mind. It is further relevant to see that the other three persons had the decency to at least accept their guilt and charge and tendered their apology for their act whereas applicant neither admitted charge nor had decency to offer his apology. Therefore, a regular enquiry was held against him in which charges against him were fully proved, therefore, he cannot compare himself with the other three persons. In these circumstances, if applicant was given the punishment of Compulsory retirement from service it cannot be challenged on the ground of discrimination, firstly, because applicant was served with the charge of leaving his post unmanned unauthorisedly apart from the misconduct which was committed by him while on duty and secondly, because even though he committed such a serious misconduct yet he did not have the decency to offer any apology but insisted for contesting charges levelled against him whereas other persons apologized and assured not to repeat such an act in future.

7. In these circumstances we are of the view that this case calls for no interference. The O.A. is accordingly dismissed with no order as to costs.



Member (A)



Member (J)

Brijesh | -