

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH,
ALLAHABAD

ORIGINAL APPLICATION NO.254 OF 2000

ALLAHABAD THIS THE 2nd DAY OF March, 2005

HON'BLE MR. D.R. TIWARI, MEMBER-A
HON'BLE MR. K.B.S. RAJAN, MEMBER-J

Jai Narain,
Ex-Ticket No. 202/MB,
S/o Sri Tulsi Ram,
R/o 11/4 New LIG,
Barra-6 Near Green Masjid,
Kanpur.

.....Applicant

(By Advocate Shri R.Verma.)

V E R S U S

1. Union of India,
Through the Secretary,
Ministry of Defence,
New Delhi.
2. The Additional Director General,
Ordnance Factories Board,
10-A S.K. Bose Road,
Calcutta.
3. The Senior General Manager, Ordnance Factory, Kanpur

.....Respondents

(By Advocate: Sri A.N. Shukla)

ORDER (ORAL)

BY K.B.S. RAJAN, MEMBER-J

By this O.A., the applicant has challenged the disciplinary authority's order dated 2.9.1997 and appellate authority's order dated 28.12.1998. As per the above orders, the applicant, who was serving as Labour 'B' was charged with misconduct of theft and on the charge being held to be proved

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theft and on the charge being held to be proved after due inquiry, an order of penalty of compulsory retirement was passed and the same was upheld in appeal. The entire proceedings were preceded by an order of suspension dated 31.12.1991. The applicant has challenged the proceedings mainly on the ground that no opportunity to cross examine the witnesses and consequently principles of natural justice were stated to be violated. He has also contended that the decision of the authorities was based upon extraneous matters. The applicant has also contended that a criminal case was pending on the same matter and the trial was on and as such the decision of the disciplinary authority before the criminal case is decided, is not justified.

2. The respondents filed their Counter affidavit wherein it has been stated that the applicant was caught red handed by the State Security duty staff while taking out 17 pieces of iron and angle of different sizes, one pipe about one ft. long, cast iron about 46 Kg. through 18' diameter made in the compound wall. The said articles were getting loaded on one two seater Auto and the security staff had caught the applicant red handed. On account of this, the applicant was kept under suspension, later on charge sheeted and charges having been proved, penalty of compulsory retirement was passed.

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3. The counsel for the parties were heard and the pleadings perused.

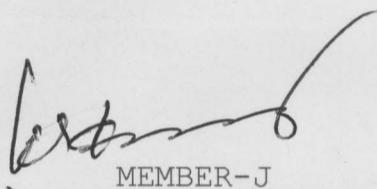
4. As stated earlier, the main contention of the applicant is violation of principles of natural justice. The aforesaid reason has not been substantiated in any manner. The applicant was, no doubt, proceeded against the Indian Penal Code and the respondents contend that there is no legal bar in parallel proceedings as the departmental action is for the misconduct and, therefore, to ascertain, it was desirable to keep him in service.

5. We have considered the entire case by going through the pleadings. A perusal of sequence of events clearly shows that the respondents have meticulously followed the disciplinary proceedings without leaving any scope to observe that there has been any legal lacuna in the decision making process. The order of the disciplinary authority is comprehensive and the punishment imposed is found to be not excessive. The appellate authority has also taken into account all the seven points raised by the applicant in the appeal and all the points have been answered as well. The decision by the appellate authority also appears to be fully justified. It is settled law that in the departmental proceedings, the scope of judicial intervention is considerably limited and where there is no legal lacuna in the

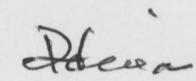
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decision making process, the findings of the inquiry authority and the decision of the disciplinary authority cannot be found fault with. As regards quantum of penalty, again, it is prerogative of the authorities concerned and in the instant case for the misconduct of theft, the order of compulsory retirement cannot be said to be excessive.

6. Under the above circumstances, the O.A. being devoid of merits, is only liable to be dismissed, which we accordingly order so. No costs.



MEMBER-J



MEMBER-A

GIRISH/-