

Reserved

**THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH**

Original Application No.1043/2000

This ~~9th~~ the day of ~~February~~ 2007

March

HON'BLE MR. JUSTICE KHEM KARAN, VICE-CHAIRMAN.
HON'BLE MR. P.K. CHATTERJI, MEMBER (A)

Bhagwan Das S/o Ram Swaroop aged about 56 years Farm Hand, R/o 59/116 Pragati Nagar, Meerut.

...Applicant.

By Advocate: Shri ~~Uda Gopal~~ ^{R.B. Yadav} for Shri Anant Vijai

Versus.

1. The Union of India through its Defence Secretary, Ministry of Defence, New Delhi.
2. Deputy Director General, Military Farms, Central Command Station, Lucknow.
3. Mr. G.S. Budwal, DAMF, Officer I/C M.F. Meerut Cantt. Meerut.

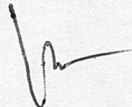
By Advocate: Shri S. Singh.

ORDER

BY HON'BLE MR. JUSTICE KHEM KARAN, VICE-CHAIRMAN


It is prayed that the impugned order dated 06.10.1999 (Annexure-A-1) by which the applicant has been compulsory retired from service with full pension and gratuity as admissible to him on the date of his compulsory retirement, be quashed with all consequential benefits.

2. While working as Farm hand in the Military farm, Meerut, the applicant was involved in a Criminal Case Under Section 498-A of IPC and Under Section 34 of Dowry Provision Act. There appears no dispute



that he was arrested on 7.6.1993 and was lodged in jail and from there was released on bail on 14.6.1993. He was served with a Memorandum of charge-sheet dated 20.1.1996 under Rule 14 of CCS (CCA) Rules 1965 containing three charges. The first charge was that he absented from duty from 07.06.1993 to 14.06.1993 and failed to intimate his superiors about his arrest and detention in jail. The second charge was that he absented from duty from 22.12.1994 to 16.05.1995 without permission from the competent authority. The third charge was that he refused to note down the duties allotted through CYD-II Laugh Book P-77 dated 17.05.1995. The applicant denied the charges and an enquiry was held in the matter and the Enquiry officer submitted his report holding all the charges proved. In turn the Disciplinary authority namely Deputy Director General, Military Farms passed the impugned order. Without availing the departmental remedy of appeal etc. against the said punishment, the applicant filed this O.A. He says that there was a compromise or understanding in between him and the authority that no action would be taken but resiling from it, they subjected him to these proceedings and passed the punishment order. It has also been averred that the impugned order is arbitrary, capricious and is result of departmental prejudices and so deserves to be quashed.

3. The respondents have come with the reply that since the charges ^{levelled} ~~levelled~~ against the applicant were founded ⁴ ~~ed~~ well established and since the punishment order was passed after affording reasonable opportunity of hearing and since the applicant has also accepted the punishment orders by signing the pension papers etc. so the O.A. deserve to be dismissed.



4. We have heard the parties concerned quite at length and have gone through the entire material placed on record. Learned counsel for the applicant has contended that the charges were not proved and so the punishment order deserves to be quashed. Firstly, the findings of guilt recorded by the Enquiry officer and Disciplinary authority cannot be gone into, in exercise of power of judicial review unless it is shown or found that the same is based on no evidence or it is perverse or has been recorded in breach of certain rules or statutory provisions. The learned counsel for the applicant has not been able to show as to how the findings of guilt can be said to be based on no evidence or can be said to be in breach of any rule. There is no complaint that the applicant was not given reasonable opportunity of hearing. Secondly, it has nowhere been said in the O.A. that applicant had informed his superiors about his arrest and detention in jail ^{and} ~~or~~ nothing has been shown that he absented from duty from 22.12.1994 to 16.05.1995, after taking permission or leave. We find no good grounds to say that the conclusion drawn by the Enquiry officer/ Disciplinary authority as regard the guilt of the applicant is vitiated for any reason. The learned counsel for the applicant was not been able to demonstrate during the course of arguments as to what compromise or understanding was reached in between the applicant and the authority concerned, that no disciplinary action will be taken. At least no such understanding or compromise has been placed on record. We doubt whether there could have any compromise or understanding that no disciplinary action would be taken for alleged misconduct of the applicant.

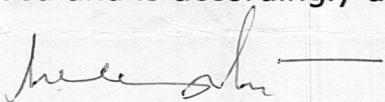
5. The learned counsel for the applicant says that the order is arbitrary, capricious and is result of departmental prejudices but



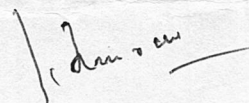
nothing specific has been said in the O.A. to demonstrate the same. It is never the allegation that the Enquiry officer or Disciplinary authority was biased. The impugned order is speaking one and the authority has passed the orders after considering all the material placed before him. It was not necessary for him to have recorded an exhaustive order as is normally done by judicial officers in judicial proceedings.

6. The last submission of the learned counsel for the applicant is that the punishment of compulsory retirement is disproportionate to the guilt proved. We do not find force in these submissions as well. It transpires from the perusal of Annexure-2 to the Memorandum dated 20.01.1996 that the applicant applied for casual leave for few days and for extension of leave for 30 days and the same were granted. In other words, the leave was applied for concealing the fact that he was in jail during the part of the period. The punishment cannot be said to be shockingly disproportionate to the guilt so proved. The Court's cannot interfere with the quantum of punishment unless the same is found to be shockingly disproportionate. Moreover, the punishment of compulsory retirement with full pensionary benefits is not one, which can be said to be disproportionate.

7. In the result, the O.A. appears to be devoid of merits and deserves to be dismissed and is accordingly dismissed but no order as to costs.



(P.K. CHATTERJI)
MEMBER (A)



(KHEM KARAN)
VICE-CHAIRMAN