

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH

THIS THE 12<sup>th</sup> DAY OF <sup>Feb.</sup> JANUARY, 2008

ORIGINAL APPLICATION NO. 130 of 2003

CORAM:

HON.MR.JUSTICE KHEM KARAN, V.C.  
HON.MR.P.K.CHATTERJI, MEMBER (A)

Tej Pratap Singh, Son of Late  
Shri Ram Baran Singh, Ex-  
Supervisor (Non Technical)  
Steel Godown, Stores Section  
Field Gun factory, Kanpur  
R/o Plot No.3528, Avas-Vikas-III  
P.O. National Sugar Institute,  
Panki, Kalyanpur Road, Kanpur.

.. Applicant

(By Adv: Shri T.S.Pandey)

VERSUS

1. Union of India through Secretary,  
Ministry of Defence, New Delhi.
2. Secretary (Production & Supplies)  
Block (Ministry of Defence)  
Delhi.
3. C. An/Member  
Ordnance Factory Board,  
10-A, S.K.Bose Road,  
Kolkata.
4. General Manager,  
Field Gun factory, Kanpur.
5. Shri S.K. Yadav, (the then) Works Manager  
Field Gun Factory, Kanpur.  
Lt.Col. D.D.Sharma, (the then)  
Security Officer, Field Gun  
Factory, Kanpur (presently  
Posted as J.G.M. Small Arms  
Factory, Kanpur).

.. Respondents.

(By Adv: Shri Gyan Prakash)

## O R D E R

**BY JUSTICE KHEM KARAN, V.C.**

Applicant has prayed for quashing punishment order dated 27.5.00 (A-2) by which respondent no.4 compulsorily retired him w.e.f. 27.5.00, as a measure of punishment and order dated 31.10.00 (A-1) by which respondent no.3 rejected his appeal against the said punishment.

2. While serving as Supervisor/Store Section in Field Gun factory, Kanpur under General Manager, Field Gun Factory, Kanpur applicant was served with a memorandum of major penalty charge sheet dated 7.9.1998 (Annexure A-8). There were following four charges:

### **ARTICLE CHARGE-1**

That the said Shri T.P. Singh while functioning as Incharge Steel Godown/Stores/FGK, in compliance with standing instructions on disposal of Steel scrap HNCM (T&B) & Steel Scrap Skull 'D', committed gross negligence and dereliction of duty on 10.06.98 inasmuch as he failed to ensure that only right quality and right quantity of material is loaded by the purchaser. The above act of said Shri T.P. Singh amounts to gross misconduct & is in violation of **Rule 3 (i) (ii) & (iii)** of CCS (Conduct) Rules, 1964.

### **ARTICLE OF CHARGE-II**

That during the aforesaid period and while functioning in aforesaid capacity, the said T.P. Singh failed to maintain absolute integrity and devotion to duty as he directly or indirectly manipulated the 40 ton weighing machine because of which private contractors trucks carrying scrap materials were loaded with excess materials than shown in the record. This, if undetected, could have caused loss to the state. The above act of said Shri T.P. Singh is in violation of **Rule 3 (1) (i)** of CCS (Conduct) Rules, 1964, and amounts to gross misconduct.

### **ARTICLE OF CHARGE-III**

That during the aforesaid period and while functioning in the aforesaid office, the said Shri T.P. Singh, committed gross misconduct as he Failed to maintain absolute integrity in that, on 10.6.98 he certified Tare & Gross Weights of private contractors Trucks as correct

/s/



Weights, but on rechecking, these were found to contain excess materials which, if passed out, would have caused unlawful gain to private contractors and loss to the state. This act of said Shri T.P. Singh is in violation of Rule 3 (1) (i) of CCS (Conduct) Rules, 1964 and amounts to gross misconduct.

#### **ARTICLE OF CHARGE-IV**

That during the aforesaid period and while functioning in aforesaid office the said Shri T.P. Singh, Sup./Stores/FGK failed to maintain absolute integrity in that, on 10.6.98 he signed the security weighment register and material gate pass No.A 637445 to certify that on Truck No.UMO 9343 Steel Scrap HNCM (T&B) was loaded But on rechecking carried out on 11.6.98, it was found that the said truck was carrying 13 pieces of unauthorized material weighing 260 kg. which, if passed out, would have caused unlawful gain to private contractors and loss to the state. The above act of said Shri T.P. Singh is in violation of Rule 3(1) (i) and (iii) of CCS (Conduct) Rules, 1964.

2.. Applicant submitted his written statement (A-9) denying the charges. It appears, he was also placed under suspension. Following other officials were also subjected to formal disciplinary proceedings, in respect of the same matter.

1. Jagdish Chandra, Asstt. Store Man, Quality control
2. Harjinder Singh, Chargeman Gr.-1 Security Section
3. K.K.Bhattacharya, Chargeman Gr.-1, Quality Control Section.
4. Bhola Mistry, Chargeman Gr-II
5. Kabi mohammed, Sr.Supervisor and
6. Dev Saran

One Shri S.K.Yadav (respondent no.5 in the OA) the then Works Manager (machine maintenance) in F.G.F.K. was appointed as Inquiry officer, to inquire into the charges and submit the report. After holding necessary inquiry he submitted his report dated 5.2.00 (Annexure A-13), holding the applicant guilty of all the charges framed against him. The Disciplinary Authority sent a copy of it to the applicant, asking him to show cause as to why the conclusion drawn there in should not be accepted. The applicant gave representation to the Disciplinary Authority, demanding certain papers which according to him were missing from the inquiry report. Copy of this representation is Annexure A-14. But the Dy.G.M.(Admn)sent letter (A-15) saying that no more documents could be provided to him. Having no other option, he submitted his reply, (Annexure A-16). After considering the inquiry report and the representation of the applicant, the respondent no.4 passed the impugned order dated 27.5.00, compulsorily retiring him from service. His appeal to respondent no.3 also remained unsuccessful as is evident from order dated 31.10.00 (Annexure A-1). He



says that after dismissal of appeal he preferred a revision on 13.2.2001 (see para 29 of OA) to respondent no.2 and upto the date of filing of this OA the revision was pending. Copy of the memo of revision is (A-18). He has challenged the punishment and appellate order as well as inquiry report on the grounds inter alia, that the Inquiry officer was not independent and impartial; that he was not given reasonable opportunity of hearing; that finding of guilt is not correct and that punishment is discriminatory as other employees so involved, were let off with minor punishment. It has also been said that in such a matter joint inquiry should have been held against all the persons so involved.

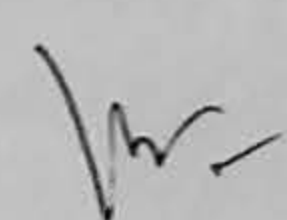
3. The respondents have pleaded that O.A. is time barred. They have tried to defend the punishment and appellate orders. It is averred in para-48, that all the relevant documents were supplied to the applicant.

4. Supplementary counter reply and rejoinder were also placed on record.

5. On the request of Shri T.S. Pandey, appearing for the applicant the record of the inquiry proceedings was also summoned and perused so as to ascertain as to whether there was any tampering with the statements of the witnesses concerned. After going through the original statements and the carbon copies of such statements of the witnesses concerned, we have not been able to find any such interpolation or tampering as suggested or alleged from the side of the applicant.

6. We have heard Shri T.S. Pandey, appearing for the applicant and Shri Gyan Prakash for the respondents.

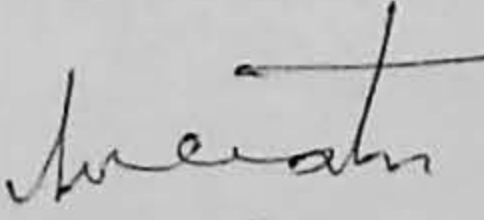
7. Before we pass on to the merits of the case we must deal with the plea of the respondents that the OA is time barred. The applicant has moved one application (misc.application No.623/03) u/s 21 (3) of Administrative Tribunal Act for condonation of delay in filing this OA. He has stated that he preferred revision on 13.2.01, but the authority concerned, has passed no order and so he has rushed to this Tribunal. In other words, he himself concedes that this OA was filed after about 2 years of the filing of revision. The cause for not filing the revision within the period of limitation, is that he kept waiting for the outcome of the revision. The question for consideration is as to whether the delay in filing this OA deserves to be condoned.

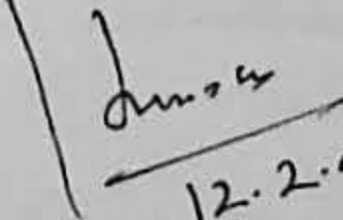


8. It is true that Section 29 of CCS (CCA) Rules do not prescribe time limit for making an application for revision u/s 29 of the said rules but that does not mean that employee concerned may keep the matter pending with him for any length of time; Section 21 (1) (b) read with Section 2 of Section 20 of Administrative Tribunal Act, 1985 provides that if no decision has been taken by the authority concerned on representation/application so made, within a period of six months from the date such representation/application is given, then the OA can be filed within a period of one year from the date of expiry of period of six months. In other words, according to these provisions could have been filed within a period of one and half year from the date of pre of revision i.e. 13.2.01. This O.A. was filed after two years. Applicant has not shown any good reason as to why he kept waiting for two years and why he did not file this OA within a period of one and half year from the date the revision was preferred. To say that he kept waiting for the outcome of the revision will not be sufficient to condone the delay. For condoning the delay he should have assigned some good reason. When the law says that he should wait for six months only then why he waited for about 2 years. It is not the case where he was prevented by illness or some other like reason. We are of the view that there are no sufficient grounds for condoning the delay in filing the OA.

9. In view of our conclusion that the OA is time barred and the delay cannot be condoned, we need not enter into the merits of the case. The OA deserves to be dismissed on the ground of limitation.

10. So, the request for condoning the delay is rejected and the OA is dismissed as time barred but with no order as to costs.

  
(P.K. CHATTERJI)  
MEMBER(A)

  
(KHEM KARAN)  
VICE CHAIRMAN

12.11.2008  
Feb  
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