

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

Original Application No.15 of 2003.

Monday, this the 1st day of November, 2004.

Hon'ble Mr. A.K. Bhatnagar, J.M.
Hon'ble Mr. S.C. Chaube, A.M.

Sri Gurmeet Singh,
Civilian M.T. Driver,
Indian Military Academy,
Dehradun,
S/o Late Sri Luxman Singh,
R/o Wing No.6, Barrack 3/8,
Prem Nagar, Dehradun.

..... Applicant.

(By Advocate : Smt Sunita Agarwal)

Versus

1. The Union of India through Secretary,
Ministry of Defence, New Delhi.
2. Lt. General, DCO AS (T&C)
Dte General Military Training
General Staff Branch,
Army Headquarters,
DHQ PO New Delhi-110011.
3. The Lt. General Commandant,
Indian Military Academy,
Prem Nagar, Dehradun.
4. Jr. Commissioned Officer (JCO)
M.T. Section, Indian Military
Academy, Dehradun.

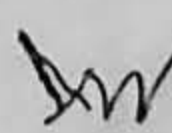
.... Respondents.

(By Advocate : Shri S. Singh)

O R D E R

By Hon'ble Mr. A.K. Bhatnagar, J.M. :

By this O.A., the applicant has prayed for quashing the order dated 13.12.2002 passed by respondent No.2 (Annexure-A -1) as well as order dated 26.4.2002 passed by respondent No.3 (Annexure-A-2) with a further direction to respondents to pay the regular pay scale which was being paid to the applicant earlier before passing of the order



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dated 26.4.2002 by respondent no.3. He has further sought for a direction to respondents to treat the period of suspension from 1.8.2001 to 25.4.2002 as on duty of the applicant and pay the entire salary of the said period.

2. The facts of the case, in brief, as per the applicant are that the applicant was appointed on 15.11.78 as temporary M.T. Driver and later on he became permanent on the said post. While he was working as such, he was served with the charge sheet dated 01.08.01 alongwith the suspension order on the charge that he was caught red handed while siphoning off the diesel from Govt. Vehicle in front of his house on 18.03.2001. An inquiry was held against him. The Enquiry Officer conducted the enquiry and held the charges proved. A copy of inquiry report was given to the applicant for making representation. The applicant submitted his representation. The disciplinary authority after considering the representation of the applicant, awarded punishment of reduction of grade and pay scale ^ffrom Grade II to Grade III and pay scale from Rs.4000-100-6000 to 3050-75-3950-80-4590 and his suspension period from 01.08.2001 to 25.04.2002 was treated as non duty. The applicant filed an appeal on 13.12.02 before Appellate Authority i.e. respondent no.4 which was also rejected by the Appellate Authority by confirming penalty awarded to him, hence he filed this O.A. Learned counsel for the applicant submitted that the documents as evidences relied upon by Enquiry Officer were not supplied to the the applicant despite repeated requests made by him. He further submitted that the applicant was not given due opportunity to produce his defence so the whole inquiry proceedings are illegal. Learned counsel for the applicant further submitted that the arrival and departure of the applicant from exercise area is duly recorded in Car diary maintained by Camp which was J.C.O./ not produced in the inquiry proceedings. Learned..pg.3/-

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counsel for the applicant also submitted that no independent witness has been examined in the inquiry proceedings. The applicant has been falsely implicated in this case due to bad relation with the respondent No.4 i.e. J.C.O., M.T. Section, Indian Military Academy, Dehradun. Therefore the action of the respondents imposing two penalties for the same offence, is totally manifestly illegal and unsustainable in the eye of law.

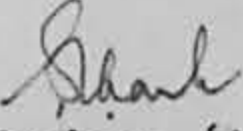
3. On the other hand, learned counsel for the respondents invited our attention on para 5, 12, 13, & 16 and submitted that the applicant was caught red handed in committing theft of the Diesel from the Government Vehicle for his personal use. The disciplinary authority ^{Mr. Vallyar} took ~~another~~ lenient view while passing the impugned order. Learned counsel further submitted that the applicant has ^{Confessed his} guilt before the MTO and deposited Jarricane full of diesel in MT section and willingly gave a statement of confession before Lt. Col. D.K. Pun, MTO. The applicant was caught by respondent No.4 i.e. Sub S.C. Dwivedi ~~by~~ red handed while siphoning diesel into a jarricane out side his residence (Annexure-CA-3). Learned counsel further submitted that the disciplinary authority has passed a legal order after considering the Inquiry Officer's report as well as the reply filed by the applicant. Learned counsel further submitted that on the appeal filed by the applicant, the Appellate Authority passed order dated 13.12.2002 which is a detailed and reasoned order. The respondents have also provided the applicant with a Defence Assistant and given him a fair opportunity of defence.

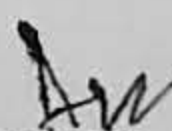
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4. We have heard counsel for the parties at length and perused the record.

5. We have gone through the order of the disciplinary authority passed on 26.04.2002 by which the pay of the applicant was reduced to lower grade i.e. Rs.4000-6000 to Rs.3050-4590. We have also perused the appellate order dated 13.12.2002 passed by Shri J.B.S. Yadav, Lt.Gen. DCOAS(T&C) and we find it is a detailed and reasoned order. We are fully aware that Court and Tribunal is not supposed to reappraise the evidence which has been relied upon by the disciplinary authority, and also cannot go into the quantum of punishment unless it shocks the conscience of the Court, as held in the case of B.C. Chaturvedi Vs. Union of India J.T.1995 (8) S.C. 65

6. Under the facts and circumstances and in view of our above discussions, we find no merit in this case and more over we find no illegality in the order passed by Disciplinary Authority as well as Appellate Authority. Accordingly, the O.A. is dismissed being bereft of merit. No order as to costs.


Member (A)


Member (J)

R.KM./