

No
Dismissal

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

M.A.No. 389/92
in

O.A. No. 464/92

XXXXXXXXXX
XXXXXXXXXX

DATE OF DECISION 30.11.1992

Shri Hemsingh Petitioner

Mr. R.E. Variava Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. N.V. Krishnan

: Vice Chairman

The Hon'ble Mr. R.C. Bhatt

: Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ? ✓
3. Whether their Lordships wish to see the fair copy of the Judgement ? ✓
4. Whether it needs to be circulated to other Benches of the Tribunal ? >

Hemsingh

... Applicant

Vs.

1. The Commandant,
Central Industrial Security
Force Unit,
I.P.C.L.,
P.O. Petrochemicals,
Baroda.
2. The Union of India,
Through:
The Secretary,
Ministry of Home Affairs,
Government of India,
North Block,
New Delhi.
3. The Dy- Inspector General,
Office of the Dy. Inspector General
(NWZ)
Central Industrial Security Force,
13, Nehru Place,
New Delhi.

... Respondents

O R A L O R D E R

M.A. No. 389 of 92
in

O.A. No. 464 of 92
.....

Date: 30.11.1992.

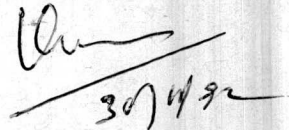
Per: Hon'ble Mr. N.V. Krishnan, Vice Chairman

Heard Mr. R.E. Variava, learned counsel for the applicant, who has filed M.A./389/92 to condone the delay in O.A./464/92. We notice that the impugned orders, which relate to penalty imposed in disciplinary proceedings are dated 30.10.1980 (Annexure A/1), being the order of the

disciplinary authority, 16.6.1981, (Annexure A/2) being the order of the appellate authority and 9.6.1982, (Annexure A/3) being the order passed in revision. All these orders have been passed more than three years before the commencement of the Administrative Tribunals Act, 1985. This Tribunal has no jurisdiction to adjudicate in respect of such ^{belated} ~~belated~~ grievances as provided under Section 21 of the Act. In the circumstances, this application is rejected.



(R.C. Bhatt)
Member (J)



(N.V. Krishnan)
Vice Chairman

*K

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From :-

The Registrar,
Supreme Court of India
New Delhi.

D.NO. 284/93 SEC EX
SUPREME COURT OF INDIA
NEW DELHI.

DATED :- 3/5/93

To

The Registrar,
Central Administrative Tribunal
Ahmedabad Bench,
Ahmedabad.

0/957/93
K.S.D.

PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL/CL.) NO. 3212/93
(Petition under Article 136 (1) of the Constitution of India
from the judgment and order dated 30-11-92

of the High Court of Judicature at CAT at Ahmedabad
in MA No. 389/92 in OANo 464/92

Hem Singh

...PETITIONER (S)

VERSUS

Union of India & Ors.

... RESPONDENT (S)

0A/464/92

Sir,

I am directed to inform you that the petition above
mentioned filed in the Supreme Court was dismissed ^{as withdrawn} by
the Court on 19/4/93.

Jan
25/5

S. V. (S)
26-5-93
C.O. I

Yours faithfully

Richardson
(For Registrar)

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD.

Application No. OA/464/92 of 199

Transfer Application No. _____ Old Writ Pet. No. _____

C E R T I F I C A T E

Certified that no further action is required to be taken
and the case is fit for consignment to the Record Room (Decided).

Dated : 17/12/92.

Counter-signed :

Section Officer/Court Officer

Sign. of the Dealing Assistant

INDEX SHEET

VERSUS

0.01, 8 029

[illegible]

CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

AHMEDABAD.

Submitted:

C.A.T./JUDICIAL SECTION.

Original Petition No:

464

of

1992

Miscellaneous Petition No:

of

Shri

Hemraj

Petitioner(s)

Versus.

U.O 1208

Respondent(s).

This application has been submitted to the Tribunal by

Shri

Sh R E Variawa

Under Section 19 of the Administrative Tribunal Act, 1985.

It has been scrutinised with reference to the points mentioned in the check list in the light of the provisions contained in the Administrative Tribunal Act, 1985 and Central Administrative Tribunals (Procedure) Rules, 1985.

The Applications has been found in order and may be given to concerned for fixation of date.

The application has not been found in order for the reasons indicated in the check list. The applicant Advocate may be advised to rectify the same within 14 days/draft letter is placed below for signature.

ASSTT:

S.O. (J):

Christian
30/4/92

D.R. (J):

1006
30/4/92

KNP24492.

Aug

02/11/92

So. (J)

objection letter is placed below for signature

obj letter issued.

06/11

Submitted

Kindly see orders overleaf.

All objections except offering of a stamp
worth Rs 4/- being Advocates welfare fund have
been complied with.

If approved, the matter will be handed
over to the concerned official for fixation

of date.

For orders pl

to

17/11/02

so. (5)

18/11

Jorrand
14.11.

18/11

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

APPLICANT(S)

Sh. Hemraj

RESPONDENT(S)

U.O. / GovtPARTICULARS TO BE EXAMINEDENDORSEMENT AS TO
RESULT OF EXAMINATION.

1. Is the application competent ? yes
2. (A) Is the application in the prescribed form ? yes - verification clause ✓
not in proper form
- (B) Is the application in paper book form ? yes
- (C) Have prescribed number complete sets of the application been filed ? yes
3. Is the application in time ? no 10 yrs 7 months.
If not, by how many days is it beyond time ? M.A.B. (C)
Has sufficient cause for not making the application in time stated ?
4. Has the document of authorisation/ Vakalat Namah been filed ? yes. Stamp worth Rs 4/- being Adhizalt
welfare fund not affixed.
5. Is the application accompanied by D.D./I.P.O. for Rs. 50/- ? Number of D.D./I.P.O. to be recorded. 100 205832
10/8/12
6. Has the copy/copies of the order(s) against which the application is made, been filed ? yes
7. (a) Have the copies of the documents relied upon by the applicant and mentioned in the application been filed ? yes
- (b) Have the documents referred to in (a) above duly attested and numbered accordingly ? no ✓
- (c) Are the documents referred to in (a) above neatly typed in double space ? xerox logs
8. Has the index of documents has been filed and has the paging been done properly ? yes

PARTICULARS TO BE EXAMINED.

ENDORSEMENT TO BE RESULT OF
EXAMINATION.

9. Have the chronological details of representations made and the outcome of such representation been indicated in the application ?

10. Is the matter raised in the application pending before any court of law or any other Bench of the Tribunal ?

11. Are the application/duplicate copy/copies signed. ?

12. Are extra copies of the application with annexures filed ?

(a) Identical with the Original.

(b) Defective.

(c) Wanting in Annexures

No. _____ Page Nos. _____ ?

(d) Distinctly Typed ?

13. Have full size envelopes bearing full address of the respondents been filed ?

14. Are the given addressed, the registered addressed ?

15. Do the names of the parties stated in the copies, tally with Name(s) those indicated in the application ?

16. Are the translations certified to be true or supported by an affidavit affirming that they are true ?

17. Are the facts for the cases mentioned under item No6 of the application ?

(a) Concise ?

(b) Under Distinct heads ?

(c) Numbered consecutively ?

(d) Typed in double space on one side of the paper ?

18. Have the particulars for interim order prayed for, stated with reasons ?

18. Remedies *Rahmatali* not mentioned ✓ NO

KNP30192.

30/2/82

Dismissal ①
28/3/92

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, AHMEDABAD
BENCH AT AHMEDABAD.

ORIGINAL APPLICATION NO. 466 OF 1992

Hemsingh,

C/o. Hirasingh Rajput.

.. Applicant

V/s.

The Commandant,

C.I.S.F. Unit & Ors.

.. Respondents

I N D E X

S.No.	Annex.	Description	Pages
1.	-	Memo of application.	1-9
2.	A1	Copy of order dated 30.10.1980.	10-14
3.	A2	Copy of the order dated 16.6.1981.	15-17
4.	A3	Copy of the order dated 9.3.1982.	18

2037
27/10/92

1 (2)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, AHMEDABAD
BENCH AT AHMEDABAD.

ORIGINAL APPLICATION NO. 464 OF 1992

Hemsingh,
C/o. Shri Hirasingsh Rajput,
Village Kambirya,
P.O. Bhadsi,
(Via) Badnor,
District Bhilwada (Rajasthan). Applicant

V/s.

1. The Commandant,
Central Industrial Security Force Unit,
I.P.C.L.,
P.O. Petrochemicals,
Baroda.
2. The Union of India,
(Notice to be served through
the Secretary to Ministry of Home Affairs,
Government of India,
North Block, New Delhi).
3. The Dy. Inspector General,
Office of the Dy. Inspector General (NWZ),
Central Industrial Security Force,
13, Nehru Place,
New Delhi. Respondents

Details of Application:

1. Particulars of Applicant:

- (i) Name of applicant and
his father's name:
Same as per cause title.
- (ii) Designation and Office in which
employed:
The applicant was working as
Security Guard, CISF Unit,
I.P.C.L., Baroda.
- (iii) Office Address:
Same as the address of the
respondent No.1 herein.
- (iv) Address for service of all notices:
As shown in the cause title.

2. Particulars of the respondents:

- (i) Names and designations of the
respondents:
As shown in the cause title.
- (ii) Office addresses of the respondents:
As shown in the cause title.
- (iii) Address for service of all notices:
As shown in the cause title.

3 (3) (3)

3. Particulars of the orders against which the application is made:

(A) (i) Order No.

(ii) Dated: 30.10.1980

(iii) Passed by the respondent No.1.

(B) (i) Order No.

(ii) Dated: 16.6.1981.

(iii) Passed by:

(C) (i) Order No.

(ii) Dated: 9.3.1982.

(iii) Passed by the Office of the Director General (CISF).

(iv) Subject in brief:

Challenging the above mentioned orders terminating the services of the petitioner, passed by the respondents herein.

4. Jurisdiction of the Tribunal:

The cause of action in the present having arisen within the territorial jurisdiction of this Honourable Tribunal, this Honourable Tribunal has jurisdiction to decide the same.

5. Limitation:

The applicant states that the application is filed after the period of limitation and a separate application for condonation of delay is being filed herewith.

6. Facts of the case:

6.1. The applicant was working as a Security Guard at the C.I.S.F. Unit, I.P.C.L. Baroda under the present respondents. The applicant was appointed on the said post by the respondents in the year 1972. The applicant had been discharging his duties with competence and care and that there were no adverse remarks or allegations of misconduct against the applicant barring the present inquiry.

6.2. It is submitted that the respoandent No.1 initiated inquiry against the applicant by issuing a show-cause notice and conducted the inquiry against the applicant which ultimately resulted into an order dated 30.10.1980 dismaissing the applicant from service on the ground of misconduct. A copy of the said order dated 30.10.1980 is produced at Annexure-A1.

Ann.A1.

6.3. The applicant being aggrieved by and dissatisfied with the order Annexure-A1 approached higher authority by way of an appeal. However, the applicant's appeal against the order Annex.A1 was also dismissed by order dated 11.6.1981. A copy of the said order dated 11.6.1981 is produced at Annexure-A2.

Ann.A2.

6.4. The applicant further being aggrieved by and dissatisfied by the order dated 11.6.1981 Annexure A2 approached the office of the Director General (CISF). However, the said appeal also

(4) S

came to be dismissed by the order dated 9.3.1982. A copy of the said order dated 9.3.1982 is produced
Ann.A3. at Annexure-A3. The applicant thereafter once again approached the Government of India by way of an application/representation. However, the decision on the same has not been taken by the respondent-Government of India.

6.5. The applicant therefore, being aggrieved by and dissatisfied with the impugned orders Annexures-A1, A2 and A3 approach this Honourable Tribunal by way of this original application on the following amongst other grounds:

6.6. The applicant submits that the inquiry conducted against the applicant is illegal and unlawful. The applicant was not guilty of any misconduct and therefore, order of termination passed by the respondents is bad and illegal.

6.7. The applicant submits that the applicant has not committed any misconduct whatsoever and that the applicant ought to have been exonerated of the charges levelled against him.

6.8. The applicant submits that the order of dismissal is illegal and unlawful inasmuch as the applicant was not given sufficient opportunity of being heard before passing the impugned orders.

6.9. The applicant submits that the inquiry conducted by the respondents is in violation of the principles of natural justice as no reasonable opportunity of representing his case was given to the applicant. The applicant submits that the inquiry suffered from large number of defects. The applicant submits that relevant documents though demanded were not supplied to the applicant. The applicant further submits that witnesses were not permitted to be cross-examined by the applicant. The applicant submits that the applicant though had filed his reply the same was ignored and noted that no reply has been filed on behalf of the applicant. The authorities below have failed in taking into account all these facts and circumstances of the case and therefore, come to a wrong conclusion.

6.10. The applicant submits that it ought to have been seen and held that the charge levelled against the applicant are not proved as there is no material on record to hold that the charges levelled against the applicant are proved.

6.11. The applicant further submits that the charges even if proved are not of such serious nature which would warrant dismissal from service. As stated above, there were no adverse remarks or complaint against the applicant. There was also no charge of inefficiency or misconduct against the applicant. The applicant therefore, ought to have been exonerated.

6.12. The applicant submits that the authorities below have violated the principles of natural justice as important relevant documents on which reliance has been placed by the respondent-authorities have not been supplied to the applicant and the inquiry is therefore, bad and is required to be quashed. The applicant submits that in the facts and circumstances stated above the applicant is required to be reinstated with full back wages.

6.13. It is further submitted that the inquiry suffered from large number of other defects and incurable mistakes committed by the respondent No.1 herein and not corrected by the higher authorities. The impugned orders Annexures-A1, A2 and A3 are therefore, required to be quashed and set aside by this Honourable Tribunal.

7. The reliefs sought for:

The applicants therefore, pray that:

(A) This Honourable Tribunal be pleased to quash and set aside the impugned orders dated 30.10.1980 (Annexure-A1), 16.6.1981 (Annexure-A2) and 9.3.1982 (Annexure-A3);

(B) ~~to grant~~ such other and further reliefs as may be deemed just and proper in the facts and circumstances of the case be granted.

8. Interim relief:

8 A. A. applicant submits that ~~there~~ he has no remedy according to the statutory rules of the department.

9. Matter not pending with the other Courts:

The applicant declares that except the representation/application before the Government of India, as stated earlier, matter is not pending before any other Court or Tribunal.

10. Particulars of the Postal Order in respect of the application fee:

- (i) No. of Postal Order: 01 205832
- (ii) Name of issuing Post Office: Navrangpura P.O. A'bad G.
- (iii) Date of issuance of Post Order: 10-9-92
- (iv) Post office at which payable: —

11. Details of Index:

Index in duplicate containing the details of the documents is enclosed.

12. List of enclosures:

As per the index.

Ahmedabad,

Dt. 18-8-1992.

[Signature]

[Signature]

Applicant's Advocate.

Verification

I, Hemsingh, ^{son of Harsing} ~~the applicant~~ ^{residing at} herein, do ^{Chulwada} ~~herein~~ ^{residing at} hereby that the contents of paras-1 to 12 are true to my personal knowledge and belief and that I have not suppressed any material facts.

Ahmedabad,

Dt. 18-8-1992

Hem Singh

Filed by Mr. *Akil Knochhi*
 Learned Advocate for Petitioners
 with second set & *three* ~~copies~~ ^{spare}
 copies copy served/not served to
 other side *ed to*
James
 Dt. 6/1/92 By Registrar C.A.T.(D)
 A'bad Bench

A2
Annex-A15
18

OFFICE OF THE COMMANDANT
CENTRAL INDUSTRIAL SECURITY FORCE UNIT
INDIAN PETROCHEMICALS CORPN LTD.

.....

POST: PETROCHEMICALS
BARODA(GUJ) 391346

No.V-15016/80/IPCL/6403

Dated: 30th October 1980

C R D E R

No.7221161 Security Guard H.H.Rajput of CISF Unit IPCL Baroda was issued with memorandum of charges under Rule 34 of CISF Rules 1969 vide memorandum No.V-15016/IPCL/1154 dated 23rd February 1980 for the following ~~charges~~ offences :-

Article of Charge No.1

That the said No.7221161 Security Guard H.H.Rajput of CISF Unit IPCL Baroda voluntarily defied the lawful orders issued by the competent authority under Unit Office Order No.12/79 and wilfully absented from General Parade on 9th November 1979, 30th November 1979 and 11th January 1980 which amounts to misconduct.

Article of Charge No.2

That the said No.7221161 Security Guard H.H.Rajput of CISF Unit IPCL Baroda refused to accept the official communication (minor chargesheets) which amounts to misconduct.

Article of Charge No.3

That the said No.7221161 Security Guard H.H.Rajput of CISF Unit IPCL Baroda misbehaved with No.7517063 Inspector S.Sandilya and obstructed No.7517063 Inspector S.Sandilya in performing his legitimate duties at 1700 hours on 14th February 1980 which amounts to misconduct.

Article of Charge No.4

That the said No.7221161 Security Guard H.H.Rajput of CISF Unit IPCL Baroda obstructed the CISF personnel for attending regimental duties by show of criminal force which amounts to misconduct.

2. The above charges are grave and No.7221161 Security Guard H.H.Rajput has been placed under suspension from 18th February 1980 under Order No.V-15016/CISF/IPCL/80/1000 dated 18th February 1980.

3. No.7221161 Security Guard H.H.Rajput has submitted his reply dated 6.3.1980 to the memorandum of charges. The reply was not found satisfactory. Shri B.P.Dubey, Asstt. Comdt was appointed as Enquiry Officer under Order No.V-15016/80/IPCL/1514 dated 12th March 1980 to inquire into the charges levelled against No.7221161 Security Guard H.H.Rajput in the above referred memorandum of charges.

.....2/-....

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4. No.7221161 Security Guard H.H.Rajput had submitted an application dated 25.5.1980 addressed to DIG N&W Zone CISF in which he had ~~xx~~ requested for a Enquiry Officer from East Zone.

5. The DIG N&W Zone CISF had carefully considered the application dated 25.5.1980 of No.7221161 Security Guard H.H.Rajput and has stated that no cogent grounds have been given by No.7221161 SG H.H.Rajput in his application for change of Enquiry Officer. He has also stated that the departmental enquiry against the SG is being held to enquire the truth of the imputation of misconducts against him and No.7221161 SG H.H.Rajput will have all reasonable opportunities to cross-examine the witnesses and defend his case lawfully. The DIG N&W Zone CISF in his letter No.V-11014/58/80/NW-SEC dated 20th June 1980 has also advised No.7221161 SG H.H.Rajput that he should cooperate in holding departmental enquiry against him. This letter was delivered to No.7221161 Security Guard H.H.Rajput on 24th June 1980.

6. No.7221161 Security Guard H.H.Rajput had submitted his application dated 30-6-1980 addressed to the IG, CISF through proper channel requesting for a change of Enquiry Officer.

7. The DIG N&W Zone who is the appellate authority under his letter No.V-11014/58/80/NW-SEC/726 dated 1st July 1980 has informed No.7221161 Security Guard H.H.Rajput that in first instance disciplinary authority has appointed Shri B.P.Dubey, Asstt. Comdt to hold departmental enquiry and the SG has submitted application to the appellate authority (DIG N&W Zone CISF) for change of Enquiry Officer which was duly considered and rejected because no cogent ground was given in the petition for the change of Enquiry Officer. The DIG N&W Zone CISF in the said letter has also stated that the SG H.H.Rajput has submitted a petition to the IG, CISF requesting that a officer from East Zone may be detailed to hold departmental enquiry and has withheld the petition stating that the appellate authority has already considered his application and has passed orders. He has also stated that the departmental enquiry is being held to enquire the truth of any imputation of misconduct against him and that during the course of the said departmental enquiry No.7221161 Security Guard H.H.Rajput will have all reasonable opportunities to cross examine the prosecution witnesses and defend his case lawfully and he was advised to cooperate with the Enquiry Officer. The said letter of DIG N&W Zone was delivered to No.7221161 Security Guard H.H.Rajput on 5.8.1980.

3. Shri B.P.Dubey, Asstt. Comdt/Enquiry Officer had issued a letter No.V-15016/80/IPCL/2917 dated 19th May 1980 to No.7221161 Security Guard H.H.Rajput asking No.7221161 Security Guard H.H.Rajput to submit his reply to the following points by 26th May 1980 :-

- a) Has he any objection to the appointment of Enquiry Officer;
- b) Does he desire to inspect or to take copy of the enquiry documents;

...3/-...

12 (9)

- c) If he wants copy of any document or to inspect the documents he may come on 26-5-1980 in the office to do so.
- d) Whether he desires that the enquiry be held in Hindi ?
- e) Whether he desires to hear the enquiry in person. If he desires to take help of any members of the Force of the unit he should produce his willingness.
- f) Whether he desires to give his written statement of defence or produce witnesses to defend his case.

9. No.7221161 Security Guard H.H.Rajput refused to take delivery of the letter No.V-15016/80/IPCL/2917 dated 19th May 1980 issued by the Enquiry Officer in the presence of three witnesses and this letter was displayed on the notice board.

10. Shri B.P.Dubey, Asstt Comdt/Enquiry Officer has informed No.7221161 SG H.H.Rajput under his letter dated 12.6.1980 that the departmental enquiry will be held on 13-7-1980 at about 11.00 p.m. in his office which No. 7221161 Security Guard H.H.Rajput refused to accept in the presence of three witnesses. The said letter was displayed on notice board.

11. No.7221161 Security Guard H.H.Rajput had failed to appear before the Enquiry Officer on 13-7-1980 and the enquiry was held ex parte.

12. The Enquiry Officer, in order to give No.7221161 SG H.H.Rajput all constitutional opportunities and to ensure that the principles of natural justice are observed, had sent copies of all statements of witnesses recorded by him and had called upon No.7221161 Security Guard H.H. Rajput to cross examine the witnesses whose evidence he had recorded on 13-7-1980 in his office, under his letter dated 18th July 1980 which No.7221161 Security Guard H.H.Rajput refused to accept in the presence of three witnesses and this letter was displayed on the notice board.

13. The Enquiry Officer had concluded the enquiry as per rules and had submitted his enquiry report to the disciplinary authority.

14. I have carefully considered the enquiry report and have agreed with the findings of the enquiry officer and I have held that the article of charges framed against No.7221161 Security Guard H.H.Rajput has been proved. No.7221161 Security Guard H.H.Rajput was issued with a Show Cause Notice alongwith a copy of the enquiry report under memorandum No.V-15016/80/IPCL/163 dated 5th August 1980 as to why he should not be dismissed from service.

15. No.7221161 Security Guard H.H.Rajput has asked for 15 days time to submit his reply to the Show Cause

.....4/-....

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Notice in his letter dated 19.6.1980 and also asked for certain documents.

16. I have carefully gone through the request of No. 7221161 Security Guard H.H.Rajput and have seen that the Enquiry Officer under his letter No.V-15016/80/IPCL/2917 ~~xxx~~ dated 19th May 1980 has asked No.7221161 Security Guard H.H.Rajput to submit his list of documents and other requirements which has already been mentioned at paragraph 8 above. The following documents were supplied to No. 7221161 Security Guard H.H.Rajput under letter No.V-15016/80/IPCL/6048 dated 8th October 1980.

1. Hindi version of the Preliminary Enquiry reports.
2. Hindi version of the statements of eight prosecution witnesses.

The other documents have not been supplied to No.7221161 Security Guard H.H.Rajput as this is not the stage to supply such documents or to test their authenticity. This is not the stage for No.7221161 SG H.H.Rajput to lead his defence. No.7221161 SG H.H.Rajput has clearly been informed at paragraph 3 of the Show Cause Notice issued under letter No.V-15016/80/IPCL/163 dated 5th August 1980 to make representation, if any, on the penalty proposed but only on the evidence adduced during the enquiry. The other documents requested by him are not the part of the evidence adduced during the enquiry and hence they have not been supplied to him.

17. I have waited for the reply to the Show Cause Notice till today 30th October 1980 and I have not received the reply to the Show Cause Notice and I am of the opinion that No.7221161 SG H.H.Rajput has nothing to say in his reply to the Show Cause Notice issued under my letter No.V-15016/80/IPCL/163 dated 5th August 1980.

18. I have given careful consideration to evidence recorded during the departmental enquiry and have reached the conclusion that all the charges levelled against the delinquent Security Guard stand fully proved. As to the quantum of punishment, after giving careful thought to the charges proved, I have come to the conclusion that the punishment of dismissal from service should be imposed and accordingly I order that No.7221161 Security Guard H.H.Rajput of CISF Unit IPCL Baroda be dismissed from service from the afternoon of 30th October 1980. The period of suspension of No.7221161 S.G. H.H.Rajput from 18-02-1980 (FN) to 30-10-1980(AN) is confirmed and he will be eligible to receive subsistence allowance paid/ payable to him.

(DAVID.S.TREASURE)
COMMANDANT, CISF
DISCIPLINARY AUTHORITY

To

No.7221161
Security Guard
H.H.Rajput
CISF Unit IPCL
Baroda

Through:- Asstt Comdt(Plants) In duplicate. With a request to arrange to hand over the original of this Order to No.7221161 SG H.H.Rajput and take his signature on duplicate copy with date and time in token of receipt and send the same to this office for record.

p.t.o.

No V-1101A/33/81/CH SEC 1153
Office of the Dy Inspector General (NWZ)
Central Industrial Security Force.
(Ministry of Home Affairs)

Deepak-13, Nehru Place
New Delhi- 49.
Dated 11 Jun 81

ORDER

No. 7221161 SG H.H. Rajput of CISF Unit, IPCL Baroda was issued with a memo under Rule 34 of CISF Rules, 1969 for the following charges:-

"Article of charge No.1

That the said No. 7221161 SG H.H. Rajput of CISF Unit, IPCL Baroda voluntarily defied the lawful orders issued by the competent authority under unit Office Order No. 12/79 and willfully absented from General Parade on 9th November 1979, 30th November, 1979 and 11 January 1980 which amounts to misconduct.

Article of charge No.2

That the said No. 7221161 Security Guard H.H. Rajput of CISF Unit IPCL Baroda refused to accept the official communication (Minor charge sheet) which amounts to misconduct.

Article of charge No.3

That the said No. 7221161 Security Guard H.H. Rajput of CISF Unit IPCL Baroda misbehaved with No 7517063 Inspector S. Sandilya and obstructed No. 7517063 Inspector S. Sandilya in performing his legitimate duties at 1700 hours on 14th February, 1980 which amounts to misconduct.

Article of charge No.4

That the said No. 7221161 Security Guard H.H. Rajput of CISF Unit IPCL Baroda obstructed the CISF personnel for attending regimental duties by show of criminal force which amounts to misconduct."

2 On receipt of the statement of defence to the said memo, Asstt Comdt B.P. Dubey of CISF Unit, IPCL Baroda was appointed as Enquiry Officer by the disciplinary authority viz Commandant CISF Unit IPCL Baroda to hold departmental enquiry against the said Ex-SG. The Ex-SG submitted a petition addressed to appellate authority viz DIG N&W Zone requesting for the change of the enquiry officer. His request was duly considered by the appellate authority who rejected his request for the change of the enquiry officer as there were no cogent ground to accede to the request. The Ex-SG was further informed that the departmental enquiry is being held to enquire the truth of any imputation of misconduct against him and accordingly he was advised that he should co-operate in holding the departmental enquiry failing which ex parte proceedings may be drawn by the enquiring officer after giving due notice. The said Ex-SG then submitted another petition addressed to the Inspector General for the change of the enquiry officer and requested that an officer from Eastern Zone be detailed to hold departmental enquiry against him. The said petition was considered by the appellate authority who informed him that his petition had been withheld since the appellate authority had already considered his appeal addressed to him against the orders of the disciplinary

12/16

7 The disciplinary authority waited for the reply to the show cause notice till 30.10.80 and since no representation to the show cause notice was received from this Ex.SG, passed the order of dismissal from service from the afternoon of 30.10.80 vide his order No V-15016/80/IPCL/6403 dated 30 Oct. 80.

8 It is against the said punishment awarded by the Commandant, CISF Unit IPCL Baroda that the Ex.SG H.H. Rajput has submitted an appeal. I have gone through the appointment order of this SG. He was appointed as SG by the AIG CISF HQrs vide CISF SG Part I No. 403/72 dated 8.12.72. I have also gone through the departmental enquiry proceedings and connected papers of the case. I find that correct procedure has been followed by the disciplinary authority. I also find that reasonable opportunities were afforded to this Ex.SG to defend his case. I have considered pleas of the appellant and other relevant records. The pleas of the appellant have no force. His contention that he had sent some letters to the Commandant, CISF Unit, IPCL Baroda and he had received no replies thereto is incorrect. Replies to the letters sent by him from time to time were given by the Commandant, CISF Unit, IPCL Baroda. After issue of show cause notice the Ex.SG had asked for more papers which were irrelevant to the departmental enquiry being held against him and the Ex.SG was informed of the reasons for non supply of the irrelevant documents. As regards his contention that he had asked for 15 days time to reply to the show cause notice issued on 5.8.80, normally the Ex.SG should have replied to the show cause notice by 20.8.80 but the disciplinary authority allowed him 15 days time and waited for his reply upto 5.9.80. His reply to the show cause notice was not received upto 8.10.80 and the disciplinary authority issued him a letter dated 9.10.80 giving him another opportunity to submit his reply to the show cause notice by 16.10.80. This Ex.SG did not submit reply to the show cause notice upto 30.10.80 and as such the disciplinary authority passed ex-parte order of dismissing the SG from service with effect from 30.10.80. The contention of this Ex.SG that he had submitted a letter dated 2.9.80 in reply to the show cause notice alongwith the application requesting for re-enquiry and that no action was taken on the same is not correct. No such application was received. The assertions of this Ex.SG that the Commandant acted prejudicially and that the charges have been levelled against him out of the revenge etc are not borne out by any fact on record.

9 The delinquent was punished on the basis of evidence brought on record. He was afforded all reasonable opportunities to defend himself during the enquiry. The charges framed against the delinquent are very serious. There can be no place for such a person in Govt service. I, therefore, see no reason to interfere with the order of the Commandant. The appeal is rejected.

ul

...4/-

10. A copy of this order will be given to the delinquent
Ex.SG H.H. Rajput free of cost.

(V P-KAPUR)

Deputy Inspector General(NWZ)

To

No 7221161 Ex.SG
H.H. Rajput

- through Comdt CISF Unit, IPCL Baroda.

Copy to:-

The Commandant,
CISF Unit, IPCL
Baroda.

- His letter No V-15016/2/81/IPCL/2075
dated 3 Apr 81 refers.

The original copy of this order may
be sent to Ex.SG H.H. Rajput and
acknowledgement thereof kept in your
records. The documents etc sent by
you are being returned separately.

le c wad

Academy

11-7-81

M.B.C.C. LTD.

Be ni wa. lal

LIBYA

to

SUBRAMANYM

TEC
[Signature]

COPY

No.V-11014/25/82-L&R
Office of the Director General
Central Industrial Security Force
(Ministry of Home Affairs)

18
Annex-A3
13

.....

96, Siddharth, Nehru Place,
New Delhi-110019.
Dated the 9th March, #1982.

O R D E R

Ex. SG H.H. Rajput (No.7221161), formerly of CISF Unit, IPCL Baroda has submitted a revision petition against the order of the Comdt. dismissing him from service with effect from 30.10.1980(AN) on the following four charges :-

- (1) Wilfully absented himself from general parade on 9.11.79, 30.11.79 and 11.1.80;
- (2) Refused to accept the official communication;
- (3) Misbehaved with and obstructed Inspector Sandilya of the unit from performing his duties at 1700 hrs. on 14.2.80; and
- (4) Obstructed the CISF personnel from attending regimental duties by show of criminal force.

His appeal was rejected by DIG/CISF, N&W Zone, New Delhi on merits on 11.6.81.

2. In the revision petition the petitioner has put forth a number of pleas most of which have already been dealt with in the orders of disciplinary and appellate authorities. He has also contended that he was not supplied with a copy of the dismissal order and that the appellate authority has incorrectly stated that he did not send any representation against the show-cause notice, while actually he did.

3. On going through the case file I find that a copy of the dismissal order was sent to him by registered post by the Comdt. which was returned to the sender by the postal authorities undelivered. The petitioner in fact did not submit any representation against the show-cause notice issued by the Comdt. In view of this, the appellate authority has correctly dwelt on this.

4. The departmental proceeding has been correctly drawn up by the disciplinary authority and the penalty imposed is commensurate with the gravity of the offence. The revision petition is, therefore, rejected.

Attested

Sd/- SURENDRA NATH
DIG/CISF

To

Shri H.H. Rajput (Ex. S
through the Comdt./CISF
IPCL, Baroda.

T.C.

[Signature]

along
with

Disputed under
MA St. No.

464/1992 dt 19/11/92

14

MA/MA/R/C. No.

MA/389/1992 in OA/464/92

Sh. Hemsingh

APPLICANT (S)

Sh. R.E. Vaerava

COUNSEL

VERSUS

4012008

RESPONDENT (S)

COUNSEL

Date	Office Report	Orders
	<p>Condonation of delay</p> <p>Misc Appl. Filed along with OA</p> <p>Adv. copy is not Served on other side</p> <p>30/11/92 RA</p>	

464 1982

15

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
AHMEDABAD BENCH AT AHMEDABAD.



MISC. APPLICATION

1389/

OF 1992

IN

ORIGINAL APPLICATION

464

OF 1992.

Hemsingh,

C/o. Hirasingsh Rajput.

...Applicant

V/s

The Commandant,

C.I.S.F. Unit & ors.

...Respondents

The applicant above named respectfully
submits as under:

1. That the applicant has filed the above mentioned Original Application before this H'ble Tribunal challenging the order of his dismissal from service by the respondents and orders of the higher authorities confirming the order of dismissal.

2. The applicant submits that he is a poor person. He has no knowledge of law or legal technicalities. The applicant had been under suspension for long periods during the departmental proceedings. The applicant after his dismissal has not been able to find other employment for himself. The applicant therefore could not approach this H'ble Court earlier on account of want of funds. The delay caused in filing this original application is therefore due to reasons beyond the control of the applicant and the delay is therefore required

....2.

to be condoned in the interest of justice.

3. As can be seen from the Original Application the applicant had approached various higher authorities against his dismissal which also consumed substantial time.

4. The applicant further submits that as stated earlier the applicant has been removed from service illegally and unlawfully. even during pendency of the departmental proceedings no substantial allowance was paid to the applicant which led the applicant and his family to starvation. After passing of the impugned order the applicant represented before various authorities unsuccessfully. Thus also consumed substantial time and the ~~de~~ delay caused in approaching this Tribunal is required to be condoned in the interest of Justice.

5. The applicant therefore prays that:

(A) The H'ble Court be pleased to condon the delay caused in filing the Original Application.

Ahmedabad.

Dt. 13.3.1992.



Applicant's Advocate

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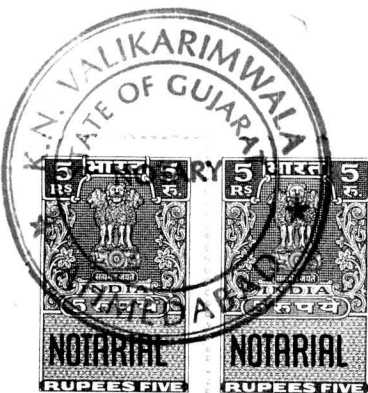
:: 3 ::



: Affidavit :

I, Hemsingh Hirasingh Rajput do hereby
state on solemn affirmation that what is stated
above is true to my knowledge and information
and I believe the same to be true.

Solemnly affirmed at Ahmedabad on this 18th day
of August 1992.



Hemsingh

SOLEMNLY AFFIRMED
BEFORE ME
K.N. Valikarimwala
NOTARY
(K. N. Valikarimwala)

SERIAL No. 2567 Dt. 18-8-92
BOOK No. 11
PAGE No. 11

K.N. Valikarimwala
NOTARY

Submitted,

The said M.A. filed with fresh O.A. without
sending copy to other side. We may place matter
before the Hon'ble Bench for ~~any~~ necessary orders.

KP
19/11

S.O. CD 3
Dy. Reg. 19/11