

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR

Date of order : 14.9.1999

O.A. No. 12/1996

Bal Kishan Soral son of Shri Gopal Kishan Soral aged 52 years at present Foreman 'A', Safety Section, Rajasthan Atomic Power Station, P.O. Anushakti, Via Kota, Rawatbhata, Distt. Chittorgarh, r/o. H.2.B/40, Anuchaya Colony, P.O. Bhabha Nagar, Distt. Chittorgarh : 323 307.

... Applicant.

v e r s u s



The Union of India through the Secretary, Department of Atomic Energy, Government of India, Anushakti Bhavan, C.S.M. Marg, Bombay.

2. Nuclear Power Corporation (Government of India Enterprise), Anushakti Bhavan, through the Managing Director, World Trade Centre, 16th Floor, Centre-1, Cuffe Parade, Colaba, Bombay.
3. Chief Superintendent, Atomic Power Station, Nuclear Power Corporation, Rawatbhata, District Chittorgarh.

... Respondents.

Mr. J.K. Kaushik, Counsel for the applicant.

Mr. Arun Bhansali, Counsel for the respondents.

CORAM:

Hon'ble Mr. A.K. Misra, Judicial Member.

Hon'ble Mr. Gopal Singh, Administrative Member.

O R D E R

(Per Hon'ble Mr. Gopal Singh)

Applicant, Bal Kishan Soral, has filed this application under Section 19 of the Administrative

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Tribunals Act, 1985, praying for setting aside the impugned orders at Annexures A/1 dated 7.12.88, A/2 dated 11.6.90 and A/3 dated 19.1.95 and for issuing a direction to the respondents to restore the position of the applicant as Fireman 'A' with effect from 7.12.98 with all consequential benefits.

2. Applicant's case is that while he was working as Fireman Electrical with the respondent-department he was served with a charge sheet on 3.10.87. This was a combined charge sheet issued to three employees, namely, the applicant, Shri Bal Kishan Sorai, Shri M.C. Porwal, Purchase Assistant, and Shri O.P. Joshi, Assistant Store Keeper. On conclusion of the enquiry, the disciplinary authority has imposed the penalty ^{on the applicant} of reduction to the lower grade and post of Assistant Foreman and the pay to be fixed at the minimum of the pay scale of Assistant Foreman, until he is found fit by the competent authority to be restored to the higher grade/post of Fireman, vide order dated 7.12.1988. The appeal filed by the applicant was rejected by the appellate authority vide order dated 11.6.90 (Annexure A/2). The revision petition filed by the applicant was also rejected vide order dated 19.1.95 (Annexure A/3). Feeling aggrieved, the applicant has approached this Tribunal.

3. Notices were issued to the respondents and they have filed their reply.

4. We have heard the learned counsel for the parties and perused the records of the case carefully.

5. Shri Mahesh Chandra, another delinquent official in this case, who was also served with the combined charge sheet alongwith the applicant and was imposed the penalty of dismissal ~~from~~ service on conclusion of enquiry, had earlier approached this Tribunal vide OA No. 24/1993 which was decided on 21.12.1998. In our

Capable of

order dated 21.12.1998 in O.A. No. 24/93, the Tribunal observed that it was a case of no evidence and as such the said O.A. was allowed with the following observations:-

"7. Though we would hesitate in reappreciating the evidence placed before the enquiry officer, but a closer scrutiny of the records placed before the Tribunal reveals that this is a case of no evidence. The entire charges against the applicant are built around two letters dated 30.01.87 and addressed to the Assistant Purchase Officer, KRPU and Shri S.S. Dahiya, ASO RAPS, respectively. It may be mentioned that both these letters were procured by Shri S.S. Dahiya, Assistant Security Officer of the Organisation from the supplier. In these letters, the supplier has allegedly expressed his inability to supply halogin-lamps. After receiving these two letters, the case has been built against the applicant. It is worthwhile to mention that the same supplier had on earlier date issued the bill and challan for the supplies made by him. The best course available to the respondents to establish the guilt against the applicant was to conduct physical verification of stores so as to establish non-receipt of halogin lamps. Instead, the enquiry officer had tried to establish the guilt based on surmises and conjectures. Even during evidence, three department officials had accepted the receipt of the material in question and their issue to the consumer department, but their statements have not been relied upon by the enquiry officer. Thus, we find that the entire case is a case of no evidence and the orders of the disciplinary authority and the appellate authority deserves to be quashed on this count alone.

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12. In view of the above discussion, we are firmly of the view that this is a case of no evidence and the Disciplinary Authority and the Appellate Authority had proceeded against the applicant with prior prejudice. The application, therefore, deserves to be allowed. The O.A. is accordingly allowed with the following directions:-

- (i) The impugned order dated 20.12.1991 (Annexure A/1, dated 1/2.9.1992 (Annexure A/31), dated 8.10.1991 (Annexure A/2) and dated 1.5. 1992 (Annexure A/3) are set aside.
- (ii) The applicant will be treated as on duty for the entire period of his dismissal / suspension, i.e., from 1.12.1988 to the date of his reinstatement with all consequential benefits.

(Signature)

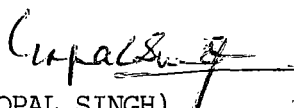
The above direction should be complied with within a period of three months from the date of issue of this order. No order as to costs."

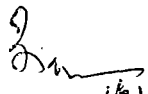
6. We do not consider it necessary to repeat the arguments that led us to come to the conclusion that it was a case of no evidence. For the reasons recorded in our order dated 21.12.1998 in O.A. No. 24/1993, this O.A. is allowed with the following directions:-

- (i) The impugned orders at Annexure A/1 dated 7.12.88, Annexure A/2 dated 11.6.90 and Annexure A/3 dated 19.1.95 are set aside.
- (ii) The applicant would continue to draw salary in the scale and post of Fireman Electrical as he was never reduced in rank / scale.
- (iii) The difference of pay and allowances due to the applicant in terms of this order shall be paid to him within three months from the date of receipt of a copy of this order.



7. Parties are left to bear their own costs.


(GOPAL SINGH)
Adm. Member


(A.K. MISRA)
Judl. Member

cvr.