

I/S

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR.**

THIRTEENTH DAY OF January twothousand Four.

O.A. No. 242/2003

The Hon'ble Mr. J.K. Kaushik, Judicial Member.

The Hon'ble Mr. G.R. Patwardhan, Administrative Member.

Shri Sukh dev Singh
S/o Shri Piara Singh
P.B. No. 53,
Jalipa Cantt.
Barmer

: Applicant.

Mr. N.K. Khandelwal: Counsel for the applicant.



VERSUS

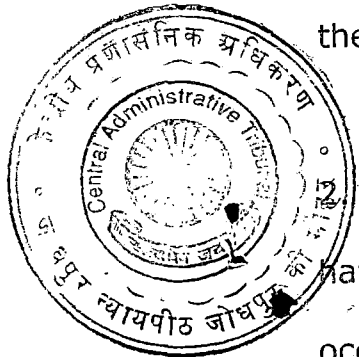
The Union of India through the
Secretary, Ministry of Defence,
Raksha Bhavan,
New Delhi.

2. Chief Engineer (Army)
Head quarters, Central Command,
Engineering Branch, Lucknow Cantt. -2
3. Engineer in Chief (Army)
Army Head Quarters,
Kashmir House, DHQ. P.O,
New Delhi.
4. Chief Engineer (Army)
Western Command,
Chandi Mandir.
5. Garrison Engineer (Army)
P.B. No. 53, Barmer (Raj)
6. Chief Engineer(Army)
Southern Command, Pune.

: Respondents.

#16
1/7**ORDER****Per Mr. J.K. Kaushik, Judicial Member.**

Shri Sukh Dev has filed this Original Application under Section 19 of the Administrative Tribunals Act 1985, with a prayer that the Disciplinary Authority may be directed to finalise the long pending disciplinary case against the applicant.



We have heard the learned counsel for the applicant and have very carefully perused the records of this case. On the last occasion, notices were issued to the respondents for filing reply. Today(13.1.2004) the case was listed for admission and the learned counsel for the applicant has drawn our attention towards a communication dated 05.01.2003, wherein a letter dated 15.12.2003 was also annexed, vide which the applicant has been imposed a penalty of recovery of Rs. 2000/-. The learned counsel for the applicant has tried to travel us through the inquiry report and also the order which has been passed by the Disciplinary Authority. We have expressed and tried to persuade the learned counsel for the applicant regarding the scope of judicial review by the Tribunal and Courts. He has earnestly submitted that the penalty order is contradictory to the rules and there is a grave illegality on the passing of the very impugned order.

3. We have considered the submission of the learned counsel of the applicant. Since we have got very limited power of judicial review against the orders of statutory authorities in disciplinary matters in as much as there is no power to the Tribunal to re-appreciate the evidence and the primary power is regarding the examination of the decision making process and in the instant case the applicant has got a statutory right of appeal against the order of penalty, which he has not availed of. Even otherwise, no such relief has been prayed for in this Original Application and the relief claimed in the instant case has been granted in toto. Therefore, it can be safely concluded that the Original Application as such has become infructuous.

4. In the premise, the Original Application is hereby dismissed as infructuous in view of our aforesaid observations. However, it shall be scarcely necessary to notice that the applicant would be at liberty to prefer the appeal before the competent authority in accordance with the rules and in case he is aggrieved by any adverse order, if any, passed in the appeal, the applicant would be at liberty to avail the remedies for the redressal of his grievance in accordance with law.

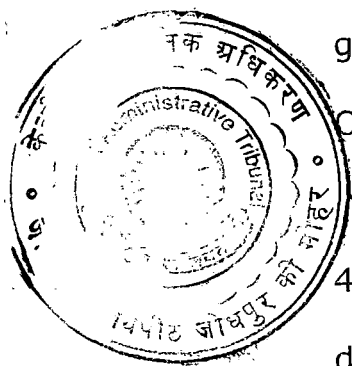
(G.R. Patwardhan)

Administrative Member.

Jsv.

(J.K. Kaushik)

Judicial Member.



N. K. Khemdelwal

1. Mr. N. K. Khemdelwal 19/01/04
JNV.

2. Copy of order 13/11/2004
Sent to R-1 J. R-6 India
22 to 27 ch 16-1-04

Part II and III destroyed
in my presence on 23/10/13
under the supervision of
section officer () as per
order dated 18/10/13
J. K. Sharma 23.10.2013
Section officer (Record)