

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

ORIGINAL APPLICATION NO. 116/2005

Date of order: 17.03.2011

CORAM:

**HON'BLE DR. K.S. SUGATHAN, ADMINISTRATIVE MEMBER
HON'BLE DR. K.B. SURESH, JUDICIAL MEMBER**

Mani Ram S/o Shri Dhanpat Ram, Army Batch No. 3166875, aged about 47 years, Resident of Nuan, Post Office Kanau, Tehsil Bhadra, Dist. Hanumangarh, presently working as Chowkidar under the Garrison Engineer, Engineering Park, Suratgarh, District Ganganagar, Post Box No. 22 Suratgarh 335804 (Rajasthan).

...Applicant.

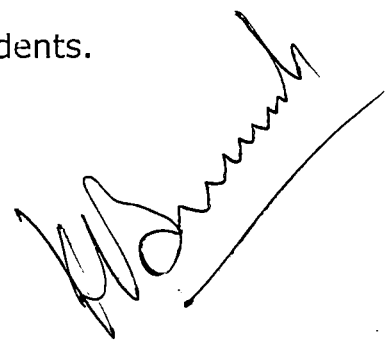
Mr. Govind Suthar, proxy counsel for
Mr. Manoj Bhandari, counsel for applicant.

VERSUS

1. The Union of India through the Secretary, Ministry of Defence, Raksha Bhawan, New Delhi.
2. The Chief Engineer, Headquarter Western Command, Engineering Branch, Chandi Mandir, District Chandigarh.
3. The Garrison Engineer, Military Engineering Services (MES), Engineering Park, Post Box No. 22, Suratgarh - 335804 (Rajasthan).
4. The Commander Works Engineer, Bhatinda, Bhatinda MIL Station.
5. Shri Sailesh Johri, Lt. Col. Garrison Engineer, Engineering Park, Suratgarh.

... Respondents.

Mr. M. Prajapat, proxy counsel for
Mr. Ravi Bhansali, counsel for respondents.

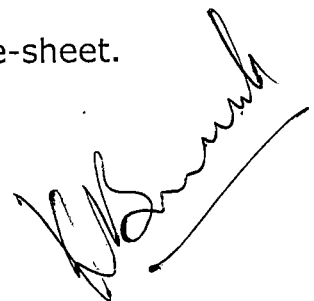


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ORDER

(Per Hon'ble Dr. K.B. Suresh, Judicial Member)

The applicant submits that he is a union leader and is also the President of Rajasthan Area MES Workers Union. He is working as a Chowkidar under the respondent no. 3. He has apparently sent some complaints against alleged irregularities and illegalities, which he would say had occurred in the office under which he is an employee.

2. The respondents would allege that they had verified these allegations and found to be untrue and incorrect. However, they would say that on 25th September, 2004 a surprise inspection was carried out and the applicant, Shri Mani Ram, was found absent. Therefore, on 27th September, 2004 a show cause notice was issued to the applicant, thereupon the applicant wanted a Hindi version and it was given to him. It appears from the record that there are two persons with the same name of Mani Ram and therefore a mistake had occurred in show cause notice about the place of duty, therefore, the respondents would submit that they had issued a revised and amended show cause notice to the applicant explaining the lacunae. Another surprise inspection was done on 10.01.2005 and the applicant was found absent. Thereupon, a formal charge sheet was issued to the applicant by memorandum dated 02.04.2005. The applicant has challenged the validity of the said charge-sheet.

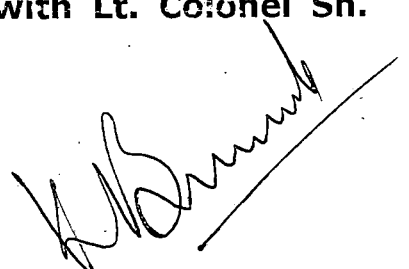


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3. After hearing both the counsels at length and going through the pleadings and records, we are convinced that the applicant is liable to face an enquiry but at the same time we also noted the admission of the respondents that the 3rd respondent being an authority who initially conducted the surprise inspection as also the disciplinary authority, he cannot hold the enquiry, therefore, the 2nd respondent shall make an appropriate arrangement for holding of an enquiry against the applicant from the stage of issue of a new charge sheet. This would be consistent with the decision of this Bench of the Tribunal in O.A. No. 34/2003 in which it was held that Garrison Engineer is not the disciplinary authority. The charge sheet dated 02.04.2005 is therefore quashed. The fresh enquiry shall be completed within a period of six months from the date of receipt of copy of this order.

3-A Following the hearing of CP No. 37/2010 [Mani Ram Vs. Shri Pradeep Kumar, Secretary, Ministry of Defence, New Delhi and three Ors.] with the consent of both counsels Mr. Manoj Bhandari and Mr. Ravi Bhansali, and the parties being present in Court and as a measure of resolution of a long pending issue, we have suo motu recalled this order passed originally on 17.12.2009 and add a further operative portion to it as follows :

3-B In the Contempt Application (CP No. 37/2010) listed today and filed by the applicant we had the benefit of hearing the Officers also, Colonel Shri R. Shriram, is before us and explained the matter along with Lt. Colonel Sh.



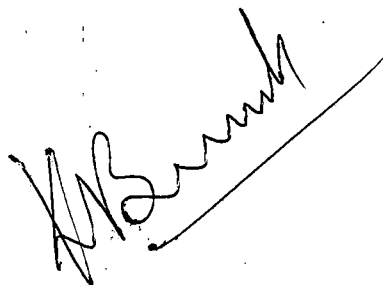
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A.K.Sharma, GE, MES. After we heard them we feel that while we cannot condone their actions fully but, and we feel that this matter must have a quietus. Shri R.Shriram, apprised us that he had already written to the Senior Officers that no point will be served by keeping the applicant out of job and paying him regular Allowance. We also feel that the stand taken by the Colonel is correct and in public interest. Therefore, we suo motu recalled our earlier interim order passed in OA No. 05/2011 with consent of both counsels as a measure of full resolution.

3-C We, therefore, suo motu review our order dated 17th December, 2009 in OA No. 116/2005 and redetermines the issue involved.

3-D On this matter, we have heard both the learned Counsels and the order is being recorded on their consent, as below and the following shall be added to the order:-

- (i) The applicant shall be taken back into service as immediately as possible and in case within one month next and his services may be utilized.
- (ii) On the allegations made in the substratum of the O.A. 116/2005, the respondents are allowed to conduct and complete an enquiry on the Chargesheet which has already been issued to Shri Mani Ram (Applicant), within the next six months.
- (iii) The respondents shall also examine whether in public interest it is required necessary to continue with the enquiry against the applicant. Further, they are being given right



and freedom to examine whether continuance in process is also necessary.

(iv) The respondents if decides to continue with the process of enquiry, the applicant shall cooperate with the same.

(iv) As part of this order, we re-call O.A. 05/2011 and set aside the stay order passed therein on 22.02.2011 in view of the order passed hereinabove.

3-E The aforesaid observations are also to be added in the order delivered by this Bench of the Tribunal on 22.02.2011 in O.A. No. 05/2011 – of the same applicant.

3-F In the result, in view of the review order passed above, this OA No. 05/2011, itself do not survive the same is disposed of accordingly."

4. With the above observations and directions, the Original Applications is hereby disposed of. There shall be no order as to costs.


(SUDHIR KUMAR)
ADMV.MEMBER


(DR. K.B. SURESH)
JUDL. MEMBER