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**CENTRAL ADMINISTRATIVE TRIBUNAL,
JODHPUR BENCH, JODHPUR**

Original Application No. 47/2005

Date of order: 28th May 2008

HON'BLE MR. JUSTICE A.K. YOG, JUDICIAL MEMBER.
HON'BLE MR. R.R. BHANDARI, ADMINISTRATIVE MEMBER.

Anda Ram son of Shri Poona Ram Ji, aged about 37 years, resident of - Village & Post - Gura Vishnoi, Via - Luni, District - Jodhpur (Raj.), last employed on the post of - Watchman in Security Section, Guard Room, Air Force Station, Jodhpur (Raj.).

...Applicant.

Shri B.L. Bishnoi, counsel for applicant.

VERSUS

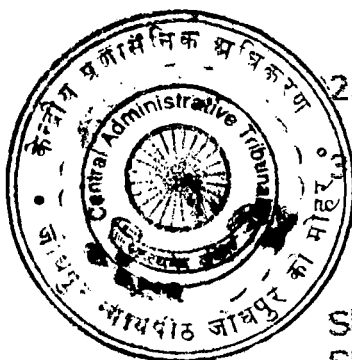
1. Union of India through the Secretary to Government of India, Ministry of Defence, Raksha Bhawan, New Delhi.

2. Air Officer Commanding, Air Force Station, Ratanada, Jodhpur.

Air Officer Commanding in Chief, Head Quarter South Western Air Command, I.A.F., Gandhi Nagar (Gujarat).

...Respondents.

Shri M. Godara, Advocate, holding brief of Shri Vinit Mathur, counsel for respondents.



ORDER

Per Mr. R.R. Bhandari, Member (A)

The applicant, Anda Ram, has filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985 requesting for quashing the impugned charge-sheet dated 16.09.1997 (Annexure A/1), order awarding major penalty dated 23.02.2000 (Annexure A/2) and order of appellate authority dated 19.05.2004 (Annexure A/3).

^{factual}
2. A brief matrix of the case as brought out in the O.A. / in the

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pleadings are as follows:

(i) The applicant was initially appointed to the post of Anti Malaria Lascar on 01.06.1988.

(ii) He appeared for selection for the post of Civilian MTD. He was sent for medical examination and for the opinion of ENT specialist. It was alleged in the charge-sheet dated 16th September, 1997 that the applicant fraudulently erased the word "NOT" from the medical document. He was, thus, charged for forgery and a major penalty charge-sheet was issued vide Annexure A/1.

(iii) Annexure A/2 brings out that the applicant was found guilty for amending the medical examination result sheet and he was removed from service w.e.f. 23rd February, 2000 vide Annexure A/2.

(iv) His appeal dated 30th May, 2002 was decided by the Appellate Authority vide his orders dated 01st May, 2004 conveyed vide order dated 19th May, 2004 (Annexure A/3).

3. In the arguments, learned counsel for the applicant pressed for two issues - (i) Medical examination was not necessary for Civilian MTDs. There were other cases of two persons i.e. Shri N.K. Badal (mentioned in para 4 of O.A.) and that of Shri Maheshwar Das (mentioned in para 5 of Rejoinder), who were selected to the post of Civilian MTD despite their failure / not being subjected to medical test and (ii) the alleged forged document/s i.e. the medical case-sheet having the opinion of the ENT specialist was not handed over to the applicant at any



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point of time.

4. During the arguments, it reveal that the cases of Shri N.K. Badal and Shri Maheshwar Das are not on the same ground. Shri N.K. Badal's case is of the year 1999 while no time period is mentioned in the case of Shri Maheshwar Das. Further, these two persons have not been made as private respondents in this case and, therefore, no cognizance is taken for these two cases.

5. We feel that "whether medical examination was necessary or otherwise" is not within our purview and, therefore, we are not moved by the learned counsel that medical examination is not necessary.

6. This leaves the other arguments of the learned counsel i.e. the alleged document was never in the possession of the applicant.

7. We have gone through the proceedings of the disciplinary case as submitted by the applicant at Annexures A/1, A/2, A/3 and also this Tribunal's order dated 10.02.2000 in O.A. No. 320/1997 and 363/1997 kept at Annexure A/4.



8. Shri Anda Ram was charged for tempering with the official documents. This matter was examined at length by the Inquiry Officer and after considering the report of the Board of

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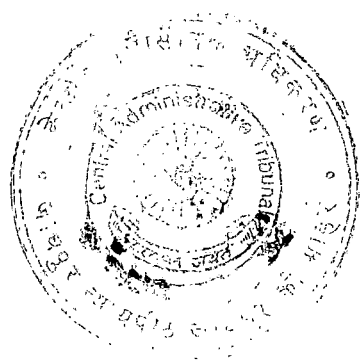
Inquiry, the disciplinary authority had issued the order awarding major penalty of removal from service. The appeal was also dealt at length as is evident from the enclosure with Annexure A/3. It was for the applicant to have raised the issue that the alleged document was not in his possession, during the course of inquiry. At this stage, it is futile to go through that question. No lacunae or procedural irregularity is noticed in the disciplinary proceedings.

9. Learned counsel for the respondents pressed his argument that this is a case of disciplinary proceedings wherein no lacuna has been brought out by the applicant.

10. Learned counsel for the respondents cited a decision of the Apex Court in the case of V. Ramana vs. A.P. SRTC and Others reported in (2005) 7 Supreme Court Cases 338. The concluding paras. of the said decision / judgment are reproduced below:

"11. The common thread running through in all these decisions is that the court should not interfere with the administrator's decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the court, in the sense that it was in defiance of logic or moral standards. In view of what has been stated in Wednesbury case the court would not go into the correctness of the choice made by the administrator open to him and the court should not substitute its decision for that of the administrator. The scope of judicial review is limited to the deficiency in decision-making process and not the decision.

12. To put it differently unless the punishment imposed by the disciplinary authority or the Appellate Authority shocks the conscience of the court/Tribunal, there is no scope for interference. Further to shorten litigations it may, in exceptional and rare cases, impose appropriate



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punishment by recording cogent reasons in support thereof. In a normal course if the punishment imposed is shockingly disproportionate it would be appropriate to direct the disciplinary authority or the Appellate Authority to reconsider the penalty imposed.



13. In the above background the High Court's judgment does not suffer from any infirmity. The appeal is dismissed without any order as to costs."

11. We do not notice any defiance of logic or moral standards or procedural impropriety in this case.

12. In view of the above, we find that there is no merit in this Original Application and the same is dismissed with no order as to costs.

R.R. Bhandari
[R.R. Bhandari]
Member (A)

A.K. Yog
[A.K. Yog]
Member (J)

Kumawat

कोपी प्राप्त की
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29.05.08

Received copy of judgment
on behalf of Sh Vinit Mathur.

16 Jan 08

(SK Mishra)
Junior Warrant Officer
72732

Part II and III destroyed
in my presence on 18/11/17
under the supervision of
section officer () as per
order dated 19/8/2014
Section officer (Record)