

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Q. A. No. 231/1991
T. A. No.

~~199~~

DATE OF DECISION 20.4.1992

M.K.Velukutty Applicant (s)

M.Girijavallabhan Advocate for the Applicant (s)

Versus

The Union of India, represented by Respondent (s)
the Secretary, Ministry of Defence, New Delhi and 2 others.

Mr.P.Sankarankutty Nair, ACGSC Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. S.P.MUKERJI, VICE CHAIRMAN

The Hon'ble Mr. A.V.HARIDASAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. To be circulated to all Benches of the Tribunal? No

JUDGEMENT

(Hon'ble Shri S.P.Mukerji, Vice Chairman)

In this application dated 4.2.91 the applicant who has been working as a Brush Painter(Skilled) has challenged the impugned orders dated 22nd June 1990 at Annexure E imposing a penalty of 'censure' and the order dated 7th December 1990 at Annexure-G by the appellate authority confirming the penalty of censure. The charge against the applicant was as follows:-

- " (a) Did wilfully disobey the lawful/reasonable orders of his superior authority in that he refused to carry out the hull preparation of HUT Balshil under-going repairs by using electric wire brush at 1445 hrs on 09 May 90.
- (b) Did wilfully act in an insubordinate manner towards his superior officers, Shri P.V.Jayaprakashan, Sr.Chargeman and LT CT Joseph at 1445 hrs on 09 May 90 and challenged to meet any consequences."

The applicant's contention is that as a Brush Painter he was never trade-tested for using electrical equipment like the electric wire brush and on 11.5.1990

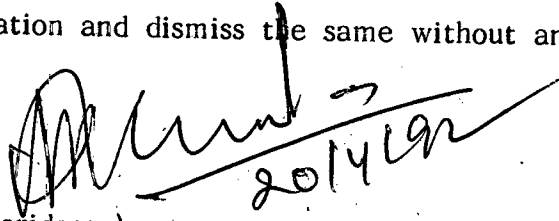
when he was directed by his superiors to use the electric wire brushing machine for preparing the hull of a vessel, he told him that he was not trained to handle any electric equipment for surface cleaning before painting. This was interpreted by his superiors as an insult and insubordination and he was unjustly chargesheeted. His contention is that operating the electric wire brush when he was not trained to use it was risky. He cited an instance of an Unskilled person who died of an accident by the bursting of a tyre for inflating of which he was not trained.

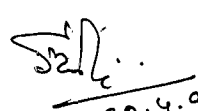
2. In the counter affidavit the respondents have stated that the applicant was promoted in the Skilled Grade of Brush Painter in October, 1986 . Even if for the sake of argument it is accepted that he was trade tested for cleaning of surface with sand paper of different grades that ~~does~~ not mean that he can be employed exclusively for duties in which he was trade tested. As per the syllabus (Annexure R1) of Brush Painter he is required to have a thorough knowledge of cleaning and maintenance of brushing gear and tools. The electric wire brush has been in effective use in Naval Ship Repair Yard, Cochin since February, 1988 and the applicant himself had operated that equipment weighing only five kilos or less on various occasions between 20.2.88 and 1.6.90. He blatantly refused to comply with the instructions to operate the electric wire brush. The machine is only a simple electro mechanical device, very easy to operate requiring no expertise or training. It is one of the cleaning gears which the individual, as a skilled person, is expected to operate. The applicant never asked for any opportunity for personal hearing at any stage. They have denied any bias on the part of the disciplinary authority and have stated that there is no charter of duties of different posts and that the electric wire brush can be operated even by an unskilled worker. They have referred to the various orders under which the disciplinary authority and the appellate authority in this case have been empowered to pass orders of penalty and appellate order.

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3. In the rejoinder the applicant has denied having handled the electric wire brushing machine.

4. We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. The respondents have clearly and unambiguously indicated the various dates in which the applicant had operated the electric wire brushing machine. This machine weighing less than five kilos ^{is} ~~are~~ capable of being operated by Unskilled workers. The applicant has been given only a minor penalty of censure. He was given ample opportunity to defend himself. Since he did not ask for a personal hearing, it was not necessary in such a case to give him a personal hearing. We do not find any merit in the application and dismiss the same without any order as to costs.


(A.V. Haridasan)
Judicial Member


(S.P. Mukerji)
Vice Chairman