

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL (LUCKNOW BENCH)  
LUCKNOW

O.A. No. 697/89

T.A. No.

Date of decision 23/4/93

..... Paresh Singh ..... Petitioner

..... Shri N.K.Nair ..... Advocate for petitioner

**Versus**

..... U.O. I. & Others ..... Respondents

..... Shri K.C.Sinha ..... Advocate for respondents

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**CORAM :-**

The Hon'ble Mr. Justice U.C.Srivastava, V.C.

The Hon'ble Mr. V.K.Seth, A.M.

1. Whether Reporters of local papers may be allowed to see the judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgement ?
4. Whether to be circulated to all other Benches ?

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Signature

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

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O.A. No.697/89

Paresh Singh ::::: Applicant

Vs.

Union of India &  
Others. ::::: Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.

Hon. Mr. V.K. Seth, A.M.

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

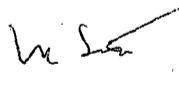
The applicant was working in the Ordnance Factory, Kanpur, as Examiner (Skilled) in the pay scale of Rs.950-1500/-. According to the applicant, the Foreman Shri V.P. Sachdeva, for certain reasons became annoyed with him and revengeful, the details of which have been given in the application. He found fault with the applicant. The applicant was suspended vide order dated 12/4/88. A charge sheet was issued to him on 28-9-88 levelling the charges that he has abused and assaulted the Foreman. An Enquiry Officer was appointed. The Enquiry Officer submitted his report. On the basis of the Enquiry Officer's report the disciplinary authority, vide order dated 13-12-88 imposed penalty of reduction in rank to the post of Examiner(semi-skilled) in the pay scale of Rs.800-1150 from the date of the order and that he shall not be automatically restored to the higher grade (original grade) until he is found fit by the competent authority and further he was warned to be very careful in his conduct and performance of his duties and any future lapses will be viewed seriously. Thus

according to the applicant, it is not a case of one punishment, but it is a case of 3 punishments inasmuch as he was reduced from his original rank to lower rank and secondly even after the expiry of the said period he will not be automatically restored to his original grade and thirdly he was warned so far as his conduct is concerned.

2. The applicant preferred an appeal on 19-1-89 against this punishment to the Chairman, Ordnance Factory. It was thereafter a notice was issued to him on 24-1-89 to show cause as to why his pay and allowances of the applicant, over and above the subsistence allowance paid during the period of suspension, be not forfeited and by the period of suspension be not treated as period not spent on duty. The applicant filed objection against the same and yet without considering his objections and other pleas, an order was passed stating that no further pay and allowances over & above his subsistence allowances already paid to the applicant for the period of suspension from 12-7-88 to 7-12-88 will be paid to the applicant and the period of suspension shall not be counted for increment. According to the applicant, yet another, 4th punishment was given to him in this manner. The appeal of the applicant was not decided. Thereafter he approached this Tribunal praying that the punishment order may be quashed on the ground that no authority below the rank of D.G.O. could have initiated disciplinary proceedings against the applicant and the one who started the proceedings was not competent to do so. Further there was no material evidence on the basis of which the said charges framed against the applicant could have been held as proved and in the absence of any

evidence no finding could have been recorded and as such the enquiry officer has recorded a biased finding, accordingly he should not have been reverted.

3. In the Counter Affidavit filed although the and action have been justified/it has been admitted that under rule 11 & 17 of the Rules the Government Servant can be reduced to a lower post to which he was not initially recruited. It appears that the respondents have not read the rule 11 & 17 of 1965 Rules carefully. It does not permit reduction of rank to a cadre to which the Government Servant does not belong. The applicant does not belong to the cadre to which he was reverted. Accordingly this punishment could not have been given. As such the punishment order deserves to be quashed and accordingly the same is quashed. As far as the competency of the authority is concerned, the punishment order was given by a competent authority. So far as the other punishments are concerned, we do not find any ground to interfere with the same and the applicant has already been subjected to several punishments. Accordingly this application is partly allowed and the punishment order dated 13-12-88 is quashed. As far as the punishment of reduction in rank is concerned, the same is quashed and the other part as well as the suspension period is concerned, the same shall stand.

  
Member (A)

  
Vice-Chairman.

Dated: 23-4-93, Lucknow.

(tgk)