

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH.

Original Application No.161/87.

DASHRATH SHANKARRAO DAHAKE,
Supervisor,
Ambajhari,
Ordnance Factory,
Ambajhari - Nagpur. .. Applicant

V/s

Ordnance Factory Ambajhari,
through General Manager,
Ordnance Factory Ambajhari,
NAGPUR. .. Respondent

Coram: Hon'ble Vice-chairman Shri B.C.Gadgil.
Hon'ble Member(A) Shri J.G.Rajadhyaksha.

Appearances:

1. Mr.S.G.Aney, Advocate
for the applicant.
2. Mr.S.R.Atre (for Mr.P.M.Pradhan)
for the Respondent.

ORAL JUDGEMENT (Per Vice-chairman Shri B.C.Gadgil)
Dated: 29.6.1987.

This matter was fixed for Admission today. We have heard Mr.S.G.Aney, Advocate for the applicant and Mr.S.R.Atre (for Mr.P.M.Pradhan) for the Respondent, on the question of admission. In our opinion, the matter deserves to be summarily dismissed for the following reasons.

The only question that is agitated before us is that the applicant has been wrongly held back at the Efficiency Bar and that this constitutes a penalty not permissible under Law. The question of allowing the applicant to cross E.B.arose for the first time on 1-3-85. At that time, a departmental enquiry against applicant was in progress and hence he was not allowed to cross it. In the departmental enquiry, the applicant was found guilty of misconduct and the punishment of 'censure' was inflicted on him. After the departmental enquiry, the

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question of crossing E.B. by the applicant was considered and he was allowed to cross it on 1.7.86.

Mr. Aney submitted that in substance, two punishments have been inflicted on the applicant namely 'censure' as well as with-holding of increment. According to him, such double jeopardy is not permissible.

It is, however, material to note that enforcing the E.B. on the ground of unfitness is not a penalty. This can be seen from the explanation (ii) to Rule 11 of CCS(CCA) Rules.

It was contended by Mr. Aney that the applicant has not been held up on 1-7-85 on the ground of unfitness. In our opinion, this submission would not be correct. We have already observed that departmental enquiry was pending in 1985. The applicant was punished for that misconduct. Thus, the question of unfitness to cross E.B. in 1985 has to be decided on the basis of the penalty that has been inflicted on him. In our opinion, the penalty that was ordered against the applicant would be a circumstance that would be relied upon for the purpose of considering the applicant unfit to cross E.B. In this way, the department is right in not allowing the applicant to cross E.B. in 1985.

Thus grievance made by the applicant does not have any merit and the application is, therefore, summarily rejected.


(B.C. GADGIL)
Vice-Chairman


(J.G. RAJADHYAKSHA)
Member(A)