

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

Tr. Application No.354/86

M.N.Balwadkar,
C/o. Shri V.B.Rairkar,
68, Somwar Peth,
Pune - 11.

... Applicant
(Original Plaintiff)

v/s.

1. Union of India
through
The Secretary,
Govt. of India,
Ministry of Defence,
New Delhi.

2. The General Manager,
Ammunition Factory,
Kirkee,
Pune - 411 003.

... Respondents
(Original Defendants)

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

Appearance:

1. Mr. V.B.Rairkar
Advocate
for the applicant.
2. Mr. J.D.Desai,
Advocate
for Mr. M.I.Sethna
for Respondents.

JUDGMENT

Date: 29-4-1987

(Per J.G.Rajadhyaksha, Member(A))

Regular Civil Suit No.745/85 on the file of the Civil Judge, Senior Division, Pune has been transferred to this Tribunal by operation of Section 29 of the Administrative Tribunal's Act, 1985.

2. The facts in brief are that the applicant was employed at the relevant time in the Ammunition Factory, Kirkee, as a Turner Grade 'B'. It is alleged that he was caught red handed operating Matka betting with the help of one Kate. A memorandum dated 27-9-1984 was issued to him

calling upon him to submit his defence against proposed action under Rule 14 of CCS(CCA)Rules. The articles of charges and statement of imputations accompanied. In reply the applicant wrote a letter dated 1-10-1984 to the General Manager, Ammunition Factory, Kirkee, admitting his guilt, and asking for pardon. The General Manager himself held the charges as proved, and in his capacity as the Disciplinary Authority came to the conclusion that the applicant was not a person fit to be retained in Government service; and, therefore, ordered his removal from service.

4. The applicant has challenged this order of removal in the Civil Suit. The Respondents had filed their written statement in that suit resisting the application(original plaintiff).

3. We have heard Mr. Raikar who argues that the Disciplinary Authority had failed to ensure that a proper and legal enquiry was held before passing the penalty order. It is his contention that firstly, the enquiring authority i.e. the General Manager did not record any statements including that of the applicant. Secondly, a co-accused was not proceeded against. Thirdly, the Disciplinary Authority depended upon the written say of the applicant given by him in his own defence which he gave on a promise that he would not be seriously dealt with. He, therefore, suggested that the Disciplinary Authority's order of penalty deserved to be quashed.

4. Mr. J. D. Desai advocate for Mr. M. I. Sethna, Counsel for the Respondents contended that since the applicant had given in writing that he was guilty and had also apologised for his behaviour, there was no need to hold any further enquiry and the Disciplinary Authority was absolutely justified in inflicting the penalty of removal as he had done.

5. Mr.Rairkar said that had a proper enquiry been held, and witnesses examined, as also had the applicant been examined in person, he might have had a chance to rescind his statement admitting his guilt. Mr.Rairkar also cites a decision of the Gujarat High Court which he feels is in his favour. This is reported in 1982(1)AISLJ Vol.I at page 607. We feel that the said ruling dated 24-2-1982 cited by Mr.Rairkar has no application here inasmuch as the delinquent in that case had been punished on 13-12-1976 and was given a second 'show cause' notice, prior to the amendment to the CCS(CCA)Rules and in reply to the second show cause notice he had rescinded his earlier admission of guilt. It is well settled now that a second show cause notice is not required to be given after the amendment to the rules, and, therefore, the only avenue open to the applicant to challenge what he had said and what was done by the Disciplinary Authority was in appeal. In the instant case we have also no reason to believe that applicant was given a promise that he would not be proceeded against if he admitted his guilt.

6. Mr.Desai reiterates that it was not necessary to examine the applicant nor to examine any other witnesses in the circumstances already discussed, and in terms of Rule 14(10) of the CCS(CCA)Rules.

7. We are told that an appeal was filed and it had been decided. Unfortunately, neither the applicant nor the respondents have brought on record the appeal memo and the decision of the Appellate Authority thereon. We are, therefore, inclined not to touch that aspect at all, and be detained thereby.

8. Turning to the merits of the case, therefore, we hold in conclusion that the applicant having admitted his guilt in writing by a letter addressed to the General Manager of the Factory, who is himself the Disciplinary Authority, he was justified, in terms of Rule 14(10 of the CCS(CCA)Rules, in finding the applicant guilty on the charges that he had admitted. It was not, therefore, necessary to hold any further enquiry. The Disciplinary Authority was thus justified in passing the order of removal. It is significant to note from the contents of the written statement of Respondents that this is the second time that the applicant has been caught conducting gambling operations within the factory premises. In the circumstances, we are unable to agree with Mr.Rairkar, that there has been any miscarriage of justice or any violation of principles of natural justice; and, therefore, we hold that the order passed by the Disciplinary Authority is just and proper.

9. In the result the application fails. We order that the application be dismissed. In the circumstances of the case, however, we order that the parties should bear their own costs.

B.C.Gadgil

(B.C.GADGIL)
Vice-Chairman

(J.G.RAJADHYAKSHA)
(J.G.RAJADHYAKSHA)
Member(A)