

(12)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH : NEW BOMBAY.

Tr.A. 361, 362 and 363 of 1086.

Shri D.G.Bhaviskar ... Applicant in Tr.A.361/86.
Shri M.B.Patil ... Applicant in Tr. A. 362/86.
Shri D.A.Suryawanshi ... Applicant in Tr.A.363/86.
versus

Union of India and others ... Respondents.

P R E S E N T :

The Hon'ble Shri G.Sreedharan Nair, Vice Chairman.

The Hon'ble Shri M.Y.Priolkar, Member (Admn).

For the applicants- Shri V.B.Raikar, Advocate

For the respondents- Shri M.I.Selva, Advocate.

JUDGMENT & ORDER:

G.Sreedharan Nair, Vice Chairman :

These three applications relate to three transferred suits. They were heard together and are being disposed of by a common order as the issue involved in all these applications is identical.

2. These applicants are Firemen working in the Ordnance Factory, Dehu Road, Pune. All of them were proceeded against under the CCS(CC&A) Rules, hereinafter called the Rules, for misconduct in connection with an incident that took place along the Ravet Road of the factory on 25.3.1983 between 11.15 and 11.30 PM after completion of the second shift. Since two pieces of wooden planks tied up with a rope were found near the perimeter wall, these applicants were proceeded against on the imputation that they were responsible for the attempted theft of the property. A joint enquiry was held wherein they denied the imputation. ~~But~~ The Inquiry Officer found ~~that~~ the imputation to be true. The Disciplinary Authority acting on the recommendation of the Inquiry Officer

2.

imposed upon these applicants the penalty of reduction to of pay/the minimum of the scale in the time-scale of of pay of Rs. 200-250/- for a period of three years with cumulative effect. The appeals submitted by them were rejected. Hence they have filed the suits for a declaration that the order imposing the penalty is illegal.

3. The main ground urged is that the finding was arrived at by the Inquiry Officer without any legal evidence but merely based on suspicion.

4. The respondents have filed reply contending that the order~~s~~ imposing the penalty ^{is} not bad in law, and does not require interference.

5. When this matter was heard, the counsel of the applicants brought to our attention the appellate order dated 13.9.1984 by which the appeals submitted by these applicants were dismissed. Though there is a statement in the order that the appeal is time-barred, it does not appear to have been rejected on that ground, but has been entertained and has been disposed of by holding that the procedure prescribed in the Rules has been complied with, the findings are justified and that the penalty imposed is adequate.

6. We have perused the appellate order. It reveals that the appellate authority has not applied its mind to the facts of the case or has cared to find out whether