

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO. : 1029/96

Date of Decision : 13.6.2001

S.K.Baruah \_\_\_\_\_ Applicant

\_\_\_\_\_  
Advocate for the  
Applicant.

VERSUS

Union of India & Ors. \_\_\_\_\_ Respondents

Shri R.R.Shetty for  
Shri R.K.Shetty \_\_\_\_\_ Advocate for the  
\_\_\_\_\_  
Respondents

CORAM :

The Hon'ble Shri S.L.Jain, Member (J)

The Hon'ble Shri Govindan S. Tampi, Member (A)

- (i) To be referred to the reporter or not ?
- (ii) Whether it needs to be circulated to other Benches of the Tribunal ?
- (iii) Library

No.

SLJIN<sup>1</sup>  
(S.L.JAIN)  
MEMBER (J)

mrj.

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.1029/96

Wednesday this the 13th day of June, 2001.

CORAM : Hon'ble Shri S.L.Jain, Member (J)

Hon'ble Shri Govindan S.Tampi, Member (A)

S.K.Baruah,  
Cook No.14450475  
8/3 Adm. & Trg. Regement,  
Artillery Centre,  
Nasik Road Camp,  
Maharashtra.

...Applicant

vs.

1. Union of India  
through Secretary,  
Ministry of Defence,  
South Block, New Delhi.

2. Director General of Artillery,  
(Arty. 3) General Staff Branch,  
Army Head Quarters DHQ PO  
New Delhi.

3. The Commandant  
Artillery Centre,  
Nasik Road Camp,  
Maharashtra.

...Respondents

By Advocate Shri R.R.Shetty  
for Shri R.K.Shetty

ORDER (ORAL)

{Per : Shri S.L.Jain, Member (J)}

This is an application under Section 19 of the  
Administrative Tribunals Act, 1985 seeking the relief to quash  
the order dated 25.5.1995 and 17.7.1995 passed by the  
disciplinary authority.

*S.L.Jain*

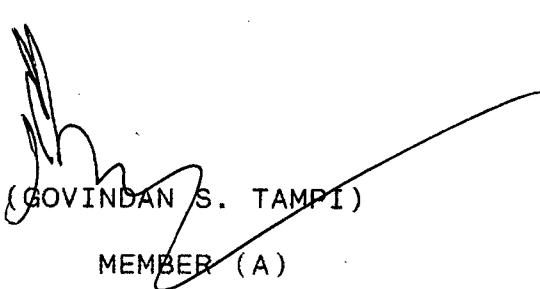
2. The applicant was served with a chargesheet dated 10.4.1995 (Exhibit-A-3, page 21 of the OA.) under Rule 16 of CCS (CCA) Rules, 1965. The applicant submitted the reply to the same. Thereafter, the disciplinary authority passed the order dated 25.5.1995 (Annexure-A-1) and the penalty awarded was with-holding of increment of pay at Rs.14/- p.m. for a period of one year with cumulative effect. Thereafter, the disciplinary authority suo-moto vide Annexure-'A-2' modified the punishment to with-holding of increment of pay at Rs.14/- p.m. for a period of one year without cumulative effect.

3. The applicant has filed this OA. and the grounds raised by the applicant are that the action of the respondents in awarding the punishment without following the provisions of Rule 3 to 23 of CCA (CCS) Rule 1965 is bad, illegal, arbitrary unconstitutional, against the principles of natural justice and is malafide in law. The disciplinary authority exceeded the jurisdiction. The action is in violation of Article 14 & 16 of the Constitution of India. The authority awarding the punishment has no power to change the punishment after the same is communicated to the applicant.

4. After hearing the respondents' counsel when the applicant's counsel is not available, as we have proceeded under Rule 15 of the CAT (Procedure) Rules, we are of the considered opinion that vide Annexure-A-4 (page 23 of the OA.), the applicant has virtually admitted his guilt and pleaded unintentional act only. He has also requested for excuse for his guilt. The act of the applicant which is alleged is to be considered and not his intention, when it has no bearing with intention. The applicant has not brought out any other procedural lapse in the enquiry proceedings.

5. It is true that the disciplinary authority vide its order dated 25.5.1995 passed the punishment which was not as per law but there exists always a power with the authority to correct its own mistake. Hence, we do not find any error in order Annexure-A-2 passed by the disciplinary authority dated 17.7.1995 modifying the punishment.

6. In the result, we do not find any substance in the OA., it is liable to be dismissed and is dismissed accordingly with no order as to costs.

  
(GOVINDAN S. TAMPI)  
MEMBER (A)

  
(S.L.JAIN)  
MEMBER (J)

mrij.