

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO. : 456/2000

Date of Decision : 21.9.2001.

R.R.Kurkure

Applicant

Shri S.V.Marne

**Advocate for the
Applicant.**

VERSUS

Union of India & Ors.

Respondents

Shri R.K.Shetty

**Advocate for the
Respondents**

CORAM :

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

The Hon'ble Shri S.K.Agarwal, Member (A)

(i) To be referred to the reporter or not ? Yes

**(ii) Whether it needs to be circulated to other ~~NO~~
Benches of the Tribunal ?**

(iii) Library Yes

S.L.Jain
**(S.L.JAIN)
MEMBER (J)**

mrj.

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.456/2000

Friday this the 21st day of September, 2001.

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

Hon'ble Shri S.K.Agarwal, Member (A)

R.R.Kurkure,
Ex-Store Keeper,
Store Section,
Ordnance Factory,
Varangaon-425 308.

...Applicant

By Advocate Shri S.V.Marne

vs.

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

2. The Chairman,
Ordnance Factory,
S.K.Bose Road,
Calcutta.

3. The General Manager,
Ordnance Factory,
Varangaon, Dist. Jalgaon.

...Respondents

By Advocate 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 to quash and set aside the penalty order dated 14.9.1999 and the appellate order dated 19.5.2000 with a direction to the respondents to reinstate the applicant with full backwages and other consequential monetary and non-monetary benefits.

Shri S.L.Jain

..2/-

2. The applicant who was appointed as a Store Keeper on 6.11.1989 and while serving as such was served with a chargesheet dated 23.1.1999. The applicant replied to the charges denying the same. During the course of enquiry on 6.2.1999, the applicant accepted the charges by a written document marked as Annexure-'A-4' (OA. page 21). The enquiry officer submitted the report. After consideration of the report, the disciplinary authority passed the impugned order dated 14.9.1999 and the penalty awarded is compulsory retirement w.e.f. 14.9.1999. The applicant preferred the appeal against the said order which was rejected vide order dated 19.5.2000.

3. The grievance of the applicant is that after his denial of charges, he was approached by his superior officers viz. Shri R.B.Surose, S.H./Store and Shri J.S.Yewale, Chargeman, Stores, they advised that he should accept the charges levelled against him as many persons will come in trouble during the enquiry and it will cause unnecessary harassment to them. The said superior officers assured him that they will meet the disciplinary authority and will discuss the issue and will also settle the case. Though he was not willing to accept the charges as he was totally innocent and had committed no misconduct, the superior officers pressurised the applicant to accept the charges and also gave assurance that he will not be punished by the disciplinary authority as they have already discussed the matter with the General Manager who has in turn given an assurance that he will

S.L.D.M.

take lenient view by issue of only a warning. This is the cause on the basis of which he claims that he has admitted the charges. Hence, this OA. for the above said reliefs.

4. The claim and allegation of the applicant is denied by the respondents.

5. We are not inclined to accept the allegations levelled by the applicant that he has accepted the charges when he was pressurised and assured by the superiors. Though he has raised the said grounds in the appeal, but that cannot be a ground that it was a truth.

6. Facing the situation, the learned counsel for the applicant argued that applicant has not completed even 10 years of service and the penalty of compulsory retirement has been imposed. After perusal of Rule 11 of CCS (CCA) Rules, we are of the considered opinion that penalty of compulsory retirement can be imposed even if the delinquent employee has not completed 10 years of service as such, we do not find any illegality in imposing the said penalty.

7. The learned counsel for the applicant argued that the penalty imposed is not proportionate to the charges levelled against the applicant. As the charges relates to forgery and loss of the stocks, we do not find that the penalty imposed is such

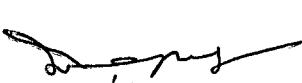
J.W.DW

..4/-

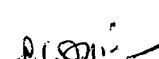
which shocks the conscience of the Tribunal. It is the settled law that it is for the departmental authorities to decide the question of penalty and Courts/Tribunal can interfere only when it shocks the conscience of the Tribunal. We do not find that the case of the applicant is covered by the said situation.

8. The learned counsel for the applicant relied on AIR 1987 (2) CAT 457, Shri Kartar Singh vs. Union of India & Ors. and argued that the applicant's qualified service is short by few months, hence by relaxing the said period, he must be deemed to have qualified service for determining the pension. The case does not relate to a penalty but it was a case where relaxation was provided. The relaxation is to be provided by the respondents and it is not so agitated before the respondents. This point can be agitated before the respondents and respondents are at liberty to decide the same in accordance with law. If thereafter the applicant has any grievance, he may agitate the grievance in accordance with law.

9. In the result, OA. deserves to be dismissed and is dismissed accordingly with no order as to costs.


(S.K.AGARWAL)

MEMBER (A)


(S.L.JAIN)

MEMBER (J)

mrj.