

CENTRAL ADMINISTRATIVE TRIBUNAL: MUMBAI BENCH

ORIGINAL APPLICATION NUMBER 94 OF 1994

WEDNESDAY, THIS THE 30TH DAY OF JUNE, 1999.

Shri Justice S.Venkataraman, .. Vice-Chairman.

Shri S.K.Ghosal, .. Member(A)

P.Ramanujam,
Ex.Turner 'C' Grade,
Ammunition Factory, Kirkee,
Pune-20, C/o G.S.Walia,
Advocate, High Court, 16,
Maharashtra Bhavan,
Bora Masjid Street,
Fort, Bombay-400 001. .. Applicant.

(By Advocate Shri G.S.Walia)

v.

1. Union of India
through Ministry of Defence
Ordnance Factory Board,
10-A, Oakland Road,
Calcutta - 700 001.
2. Director General of
Ordnance Factory,
Calcutta-700 001.
3. General Manager,
Ammunition Factory,
Kirkee, Pune-20.
4. Joint Director/VIG,
Ordnance Factory Board,
10-A, Oakland Road,
Calcutta 700 001. .. Respondents.

(By Standing Counsel Shri R.K.Shetty)

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O R D E R

Justice S.Venkataraman, Vice-Chairman:-

The applicant is aggrieved by the order passed by the

Disciplinary Authority dated 18-3-1993 finding the applicant guilty of the charges framed against him and the order dated 4-11-1993 rejecting the appeal preferred by the applicant.

2. The applicant was working as Turner 'C' Grade in Ammunition Factory, Kirkee. Three charges had been framed against him. The first charge was that while employed as Turner 'C' Grade, the applicant showed lack of interest in work resulting in loss of Government material and delay in supply of components/tools thus holding up defence production which was prejudicial to the interest/security of the State. It is stated that during January, 1981 the applicant took two days time to make 30 numbers of jobs entrusted to him, that job had been spoiled and that resulted in not only loss of Government material but delayed the supply of components and tools holding up the defence production. The second charge was that he was remaining away unauthorisedly from place of work and thereby guilty of misconduct. In the statement of imputations the dates^{on} and time^{at} ~~in~~ which the applicant was unauthorisedly absent from duty spot have been given and it is also stated that his wages had been deducted for not doing any work or missing from the place of work.

3. The third charge was that the applicant while employed as Turner 'C' Grade was guilty of insubordinate behaviour with staff on shop floor. In the statement of imputations, it is stated that on 6-10-1980 the applicant was not doing any work and he was also missing from place of duty on 7-10-1980 since morning, that when a report made by Sri D.Rajasenon was given

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for signature of Sri I.T.Khan, Chargeman and Sri Maskar, the applicant who was standing nearby took that report and after reading the same tore it up and started shouting in top of voice and abused the shop floor staff members in front of many other workers resulting in indiscipline in the section.

4. As the applicant denied the charges, an Inquiry Officer was appointed. He, after conducting an inquiry, submitted a report holding that the charges had been established. The Disciplinary Authority on the basis of that report had imposed the penalty of removing him from service. The appeal preferred by the applicant was rejected. Then the applicant challenged the orders before this Tribunal. The Tribunal found that the Appellate Authority had not given personal hearing to the applicant as sought for by him and as such remanded the matter back to the Appellate Authority to decide the matter afresh after giving personal hearing to the applicant. The Appellate Authority after giving a personal hearing to the applicant confirmed the finding of the Disciplinary Authority, but modified the penalty to compulsory retirement. That was again challenged before this Tribunal. As it was found that a copy of the inquiry report had not been furnished to the applicant before the Disciplinary Authority took a decision, in the light of the judgment in Ramzan Khan's case, the orders impugned were quashed and the matter was remanded to the Disciplinary Authority for furnishing the inquiry report to the applicant, to call for his representation and to pass an order after considering the representation. The Disciplinary Authority after considering the representation

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given by the applicant, after the copy of the inquiry report was furnished, has passed the impugned order holding that the charges are proved and imposed the penalty of compulsory retirement. This was again challenged by the applicant by means of an appeal. The appeal was also rejected. It is in this way the applicant has again come before this Tribunal.

5. The learned counsel for the applicant first contended that the charge that the applicant is guilty of insubordinate behaviour to the staff on shop floor is vague, that even in the statement of imputations though it is alleged that the applicant abused the shop floor staff, the actual abusive words used by the applicant have not been mentioned and on account^{ds} this vagueness the applicant could not have defended himself. He also relied on the decision of the Supreme Court in SAWAI SINGH v. STATE OF RAJASTHAN [1986 SCC (L & S) 662] in support of his contention. He has drawn our attention to para 14 of that judgment wherein the Supreme Court has held that if the charges ~~were~~^{are} vague it ~~was~~^{is} difficult to meet the charges fairly by any accused. It is on the basis of the facts of that case, the above conclusion has been arrived at by the Supreme Court. In the instant case, the charge against the applicant was that he was guilty of insurordinate behaviour to the staff of the shop floor. To make out how his behaviour was insubordinate the statement of imputations specifically mentions that when the report of Sri Rajasenon about the applicant's non-performance of duty on 6-10-1980 was being given to Mr.Khan for his signature the applicant took that report and after reading it tore the

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same and started shouting in top of voice and abused the shop floor staff. Apart from abusing the staff, his conduct in snatching the report from another officer and tearing it, would itself amount to insubordination and a misconduct. It is in that light the charge of insubordination has been framed. When a person abuses in abusive language and behaves in a disorderly way the charges ^{need not} ~~should~~ specify the exact abusive words ~~abused~~ by the delinquent. If the charge, ^b read as a whole, it indicates that the conduct of the applicant was disorderly and that it amounts to insubordination. In the instant case we are unable to agree with the contention that Charge No.3 suffers from any vagueness.

6. With regard to the first charge, the learned counsel for the applicant contended that it is only on one occasion the applicant is stated to have spoiled the job, that admittedly the value of the material spoiled was only Rs.35/- and that that would not amount to a misconduct. In this connection, he relied on the decision of the Supreme Court in UNION OF INDIA AND OTHERS v. J.AHMED (AIR 1979 SC 1022). In that case the Supreme Court has held that there may be negligence in performance of duty and a lapse in performance of duty or error of judgment in [✓]evaluating the developing situation may be negligence in discharge of duty but would not constitute misconduct unless the consequences directly attributable to negligence would be such as to be irreparable or the resultant damage would be so heavy that the degree of culpability would be very high. In the instant case, the evidence, no doubt, shows that the value of the material which was spoiled was only Rs.35/-, but it is

the further case of the respondents that though that material was worth only Rs.35/-, ~~as~~ on account of the fact that that material was spoiled, further defence production was held up. ^{however} Further, it is not clearly indicated as to what ^{was} the damage caused or the extent of the damaged that was caused on account of the slowing down of the production. This case would be ^a border line case regarding the question ^{whether the} of negligence on the part of the applicant ^{which} could amount to misconduct. We do not want to further ^{dwell} ~~dwell~~ on this aspect as even if the finding on this charge is not upheld, we do not find it reasonable to interfere with the findings on the other two charges.

7. The evidence referred to by the Inquiry Officer shows that the applicant used to unauthorisedly absent himself from the duty spot on many occasions and that his wages had also been cut in that regard. The applicant was working in a defence organisation and his unauthorised absence during the working hours is a misconduct and even the learned counsel for the applicant did not point out as to how the finding recorded by the Inquiry Officer on this charge is vitiated.

8. Coming to the third charge, the Inquiry Officer has on the basis of the evidence adduced in the inquiry held that the applicant had torn the report which Sri Rajasenon had submitted to Sri Khan and shouted and abused the staff especially Sri Rajasenon. Though the witnesses have not spelt out the abusive language used by the applicant, they have stated that he used objectionable words. The finding of the Inquiry Officer on the third charge cannot be said to be one without any evi-

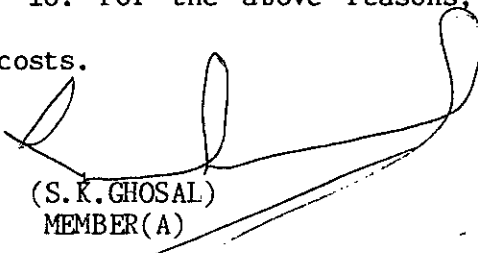
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dence. As such, we cannot interfere with that finding.

9. Lastly, the learned counsel for the applicant submitted that the quantum of punishment imposed on the applicant is grossly disproportionate to the charges which have been proved. He submitted that the applicant has still number of years of service and this is an appropriate case where this Tribunal should interfere with the quantum. The powers of the Tribunal to interfere with the quantum on the ground of proportionality is very limited. The Supreme Court has repeatedly held that the Tribunals should not interfere with the quantum of punishment in disciplinary proceedings unless the penalty is so grossly severe as to ^{shock} ~~shake~~ the conscience of the Court or a reasonable person. In the instant case, the applicant was working in a defence organisation and the charges proved against him involve question of discipline and his conduct of insubordination cannot be tolerated in such an organisation. If such an employee is allowed to continue in service, it would affect the discipline in the organisation and it will also affect the morale of the other officers. In the circumstances, we are unable to hold that the punishment imposed on the applicant is so grossly severe as to call for interference by this Tribunal.

10. For the above reasons, this application is rejected.

No costs.


(S. K. GHOSAL)
MEMBER (A)


(S. VENKATARAMAN)
VICE-CHAIRMAN.

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