

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 697/94

Date of Decision: 26.8.1999

P.B.Navgire

Applicant.

Shri H.Y.Dee

Advocate for
Applicant.

Versus

Union of India & Ors.

Respondent(s)

Shri Ravi Shetty for Shri R.K.Bhatty

Advocate for
Respondent(s)

CORAM:

Hon'ble Shri. D.S.Bawej, Member (A)

Hon'ble Shri. A.M.Sivadas, Member (J)

- (1) To be referred to the Reporter or not?
- (2) Whether it needs to be circulated to other Benches of the Tribunal?

(D.S.BAWEJA)
MEMBER (A)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

OA.NO. 697/94

Thursday this the 26th day of August, 1999

CORAM : Hon'ble Shri D.S.Bawaja, Member (A)
Hon'ble Shri A.M.Sivadas, Member (J)

P.B.Navgire,
Store-Keeper,
Central Ordnance Depot,
Dehu Road, P/No. 6966154.

... Applicant

By Advocate Shri H.Y.Deo

V/S.

1. Union of India through
Director General Ordnance
Services, Master General
of Ordnance Branch,
Army Headquarters,
D.HQ. P.O., New Delhi.
2. The Officer-in-charge
Army Ordnance Corps Records
Post Box No. 3
Trimulgherry Post
Secunderabad.
3. Administrative Officer
Kendriya Ayudh Bhandar
Central Ordnance Depot,
Dehu Road - 412 101.

... Respondents

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

ORDER (ORAL)

(Per: Shri D.S.Bawaja, Member (A))

This application has been filed by the
applicant seeking quashing of the punishment order
dated 25.2.1993 through which the punishment of
stoppage of increment for a period of one year
without cumulative effect had been imposed and
thereafter the appeal and revision application

of the applicant have been rejected as per order dated 10.7.1993 and 25.3.1994 respectively.

2. The applicant has stated that while working as Store-Keeper in No. 3 Sub-Depot of the Central Ordnance Depot at Dehu Road, Pune, he was issued a show cause notice on 8.1.1993. The applicant replied to show cause notice as per letter dated 20.1.1993. Thereafter, the applicant was issued a charge-sheet for minor penalty dated 30.1.1993 with the charge that he was found distributing Pamphlets to the workers inside the depot near Main Gate at about 0830 hrs. at the time of Mustering in on 30 Dec. 92. Despite being instructed by the Security Officer not to distribute the pamphlets inside the depot, he continued to do so. The applicant had submitted his defence for the same on 12.2.1993. Thereafter, the disciplinary authority considering the defence passed an order dated 25.2.1993 imposing punishment of holding of one increment for a period of one year without cumulative effect. The applicant made an appeal against the same. But the appeal was rejected as per order dated 10.7.1993. Thereafter, the applicant filed the revision application and the same was also rejected as per order dated 25.3.1994. Feeling aggrieved by this punishment, the applicant has filed the present OA. on 2.6.1994 seeking the relief of quashing the punishment order.

3. The respondents have filed the written statement opposing the application. The applicant has not filed any rejoinder reply.

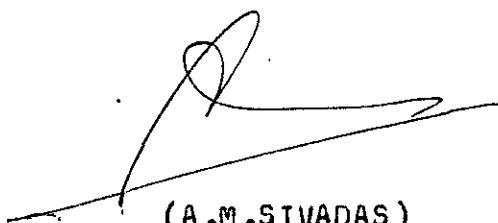
4. We have heard the arguments of Shri H.Y. Deo, learned counsel for the applicant and Shri R.R.Shetty for Shri R.K.Shetty, learned counsel for the respondents.

5. Apart from other grounds, the main ground taken by the applicant in assailing the punishment order is that the applicant had requested for conducting an oral inquiry to ascertain the factual position of the incident based on which chargesheet had been issued to the applicant, but the disciplinary authority without passing any order on this request imposed the punishment. It is also further contended that the disciplinary authority in his punishment order has relied upon the report of the Security Officer, copy of which had not been furnished to the applicant. The respondents, on the other hand, have contested this stating that the disciplinary authority did not consider it necessary to conduct inquiry as the charge had been prima facie established and in terms of Rule 16(1)(b) of CCS(CCA) Rules, 1965 the conducting of the inquiry was not mandatory. It is further stated that the reasons for not conducting the inquiry had been already conveyed to the applicant through the punishment order. Keeping in view these rival contentions, we are not convinced by the stand of

the respondents. If the applicant had asked for oral inquiry to be conducted, it was necessary for the disciplinary authority to consider his request and pass a speaking order on the same before imposing punishment. On going through the defence reply given to the chargesheet by the applicant at Annexure-'A-5', we find that the applicant had brought out the details of incident and had explained as to why oral inquiry was necessary to find out the truth. The applicant in the appeal as well as in the revision application had also brought out the need for conducting inquiry. However, it is noted that neither the disciplinary authority nor the other authorities considered this request with due application of mind and only brushed aside stating that conducting of an inquiry is not necessary. In view of these facts, we are of the considered view that punishment imposed on the applicant cannot be legally sustainable and the impugned punishment orders deserve to be dismissed on account of this infirmity alone.

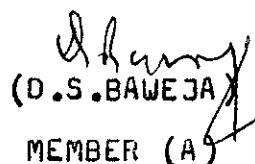
6. In the result of the above, OA. is allowed. The orders dated 25.2.1993, 10.7.1993 and 25.3.1994 are set aside. Liberty, however, is granted to the respondents is so desired from the stage of considering the request of the applicant for conducting an oral

inquiry. The disciplinary authority will consider the request for oral inquiry and pass a speaking order for the same and thereafter the further processing of disciplinary proceedings can be done as per law. No order as to costs.



(A.M.SIVADAS)

MEMBER (J)



(D.S.BAWEJA)

MEMBER (A)

mrj.