

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO. : 590/98

Date of Decision : 17-02-04

D.Z.Thakur Applicant

Ms.D.Fernandes for
Shri Suresh Kumar Advocate for the
Applicant.

VERSUS

Union of India & Ors. Respondents

Shri V.S.Masurkar Advocate for the
Respondents

CORAM :

The Hon'ble Shri A.K.Agarwal, Vice Chairman

The Hon'ble Shri Muzaffar Husain, Member (J)

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


(A.K.AGARWAL)
VICE CHAIRMAN

mrj.

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.590/98

Dated this the 17th day of Feb 2004.

CORAM : Hon'ble Shri A.K.Agarwal, Vice Chairman

Hon'ble Shri Muzaffar Husain, Member (J)

D.Z.Thakur,
M.T.Driver GDE.I,
Naval Armament Depot,
Karanja.

...Applicant

By Advocate Ms.D.Fernandes
for Shri Suresh Kumar

vs.

1. Union of India
through the Flag Officer
Commanding-in-Chief, HQ,
Western Naval Command,
Mumbai.

2. Naval Armament Supply
Officer, Naval Armament
Depot, Karanja.

...Respondents

By Advocate Shri V.S.Masurkar

ORDER

{Per : Shri A.K.Agarwal, Vice Chairman}

This OA. has been filed by the applicant D.Z.Thakur who was working as Driver in Naval Armament Depot, Karanja for quashing and setting aside the penalty of with-holding of increments for a period of two years without cumulative effect.

2. The facts of the case in brief are as follows. The applicant was working as a Driver. His vehicle met with a minor accident on 25.11.1993 resulting in some damages to the vehicle. After enquiry, it was ordered on 4.10.1994 that a sum of Rs.400/- may be recovered from him as a token amount of 5% of the loss caused to the vehicle.

3. The applicant was issued a chargesheet on 10.8.1994 for negligence and carelessness in the duties. According to the applicant, the chargesheet relates to the same incident because of which a fine of Rs.400/- was imposed on him vide order dated 4.10.1994. After an enquiry based on this chargesheet, the applicant was awarded punishment of with-holding of increment for two years without cumulative effect vide disciplinary authority's order dated 30.11.1994. Appeal against this order was rejected by the appellate authority vide order dated 7.11.1997. The learned counsel for the applicant mentioned that the penalty has been awarded to the applicant without following the due procedure. No witnesses were examined and the principles of natural justice were not observed. The applicant was not given full and fair opportunity for his defence and he also did not get a copy of the enquiry report. Further, the chargesheet relates to the incident of 25.11.1993 but it also mentions another 10 years old incident of April, 1983. This shows that action against the applicant was taken with a prejudiced mind. The learned counsel further added that as regards the old incident of 21.4.1983, the applicant was honourably exonerated of the charge of rash driving. This finds no mention in the chargesheet with the result applicant was treated as an accident prone driver.

4. The learned counsel for the respondents in his reply stated that a disciplinary action was initiated for imposing a minor penalty and therefore a long process of Presenting Officer, witnesses etc. was not required. Moreover, the chargesheet related to an accident of the vehicle which the applicant was driving and there is no dispute on this fact. In this case, neither documents nor witnesses were required. The penalty imposed on the applicant is also not a stringent one. Moreover, the appellate authority has examined all the issues in great detail and passed a reasoned speaking order. Further the appellate authority has ordered the refund of Rs.400/- recovered from the applicant before the start of regular disciplinary proceedings. The penalty of with-holding of increment for a period of two years without cumulative effect was imposed on 30.11.1994. An appeal against the same has been dismissed on 7.11.1997. The period of penalty is over long back.

5. After hearing both the counsels and going through the record of the case, we are satisfied that the appellate authority has passed a reasoned speaking order taking into account all relevant facts of the case. We do not observe any infirmity in the order and it is therefore upheld. We thus do not see any need to interfere with the order of the appellate authority and therefore this OA. is dismissed. No order as to costs.


(MUZAFFAR HUSAIN)

MEMBER (J)


(A.K. AGARWAL)

VICE CHAIRMAN

mrj.