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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.1588/95

DATE OF ORDER : 16-06-1998.

Between :-

S.Saileshwar

... Applicant

And

1. The General Manager,
Ordnance Factory Project,
M/o Defence, Govt. of India,
Yeddumailaram, Medak
District.
2. The Director General,
Ordnance Factory Board,
M/o Defence,
Govt. of India, 10-A,
Auckland Road,
CALCUTTA - 700 001.

... Respondents

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Counsel for the Applicant : Shri I.Dakshina Murthy

Counsel for the Respondents : Shri V.Bhimanna, CGSC

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CORAM:

THE HON'BLE SHRI R.RANGARAJAN : MEMBER (A)

THE HON'BLE SHRI B.S.JAI PARAMESHWAR : MEMBER (J)

(Order per Hon'ble Shri B.S.Jai Parameshwar, Member (J))

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(Order per Hon'ble Shri B.S.Jai Parameshwar, Member (J)).

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Heard Sri S.Ramakrishna Rao for Sri I.Dakshina Murthy, counsel for the applicant and Sri V.Bhimanna, learned standing counsel for the respondents.

2. While the applicant was working as Supervisor (T)/POO, Ordnance Factory, Eddumailaram, he was served with memorandum of charges alleging certain misconduct. The applicant denied the charges. An Enquiry was conducted into charges, and the Enquiry Officer by his report dt.30-1-93 held that the charges levelled against the applicant were proved. A copy of the report of the Enquiry Officer was furnished to the applicant. Applicant submitted representation dt.15-3-93. The Disciplinary Authority after considering the representation and also the Enquiry records imposed the penalty of dismissal of the applicant from service with effect from 12-5-93. Order passed by Disciplinary Authority is at pages 28 to 29 of the OA.

3. Against the said punishment order, the applicant submitted an appeal to the Director General of Ordnance Factory, Calcutta. His appeal was rejected by proceedings No.10173/A/VIG. dt.22.11.94. The order of the appellate authority is at page 33 of the OA.

4. The applicant has filed this OA challenging the order passed by the Disciplinary Authority as well as that of the appellate Authority. The applicant in the OA has specifically taken the objection that proper authority has not considered the appeal.

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It is seen that the impugned appellate order is signed by Joint Director below the words 'by order and in the name of the appellate authority'.

5. We have gone through the order dt.22.11.94 (Annexure R3 to the counter), the preamble portion of which reads as follows :-

The Appeal dt.9-6-93 of Shri S.Sailashwar, Supervisor (Tech)/Ordnance Factory Project, Medak has been considered by the Appellate Authority with reference to the relevant records of the case leading to the imposition of the penalty of Dismissal from service on him vide GM/OPP, Medak order No.02/00058/ Estt dt.12-5-93 and the following conclusions are drawn :-

This preamble only says that it was considered by the Appellate Authority. It is not made clear as to who was the appellate Authority who considered the appeal. Hence signing the order with the phrase 'by order and in the name of ^{the} Appellate Authority' is very vague and it is not possible to decipher the exact appellate authority.

6. When the applicant submits that the appellate order is passed by an incompetent authority, it cannot be brushed aside as an irrelevant contention. Hence we are of the considered view that the appellate order dt.22-11-94 has to be set aside and the case has to be remitted back to the appellate authority to dispose of the appeal of the applicant taking due note of the contentions raised in the appeal and in this OA.

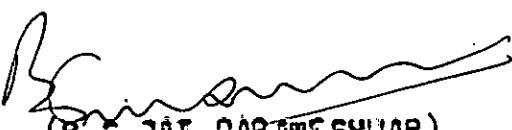
7. In the result, the following directions are passed :-

(a) The order dt.22.11.94 is hereby set aside and the case is remitted back to the appellate authority.

(b) The appellate authority shall consider the appeal dt. 9-6-93 and pass appropriate and reasoned order on the appeal in accordance with the law taking due note of the contentions raised in the OA and in the appeal.

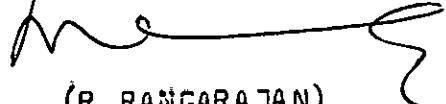
(c) While passing the order, the appellate authority himself should sign that order so as to make that order a valid one.

8. With the above direction, the OA is disposed of. No costs.


(B.S. JAI PARAMESHWAR)

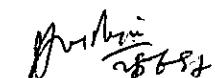
Member (J)

16.6.98


(R. RANGARAJAN)

Member (A)

Dated: 16th June, 1998.
Dictated in Open Court.


DR

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Copy to:

1. The General Manager, Ordnance Factory Project,
Min. of Defence, Yeddu-mailaram, Medak District.
2. The Director General, Ordnance Factory Board,
M/O Defence, Govt. of India, 10-A,
Auckland Road, Calcutta.
3. One copy to Mr. I. Dakshina Murthy, Advocate, CAT, Hyderabad.
4. One copy to Mr. V. Bhimanna, Addl. CGSC, CAT, Hyderabad.
5. One copy to D.R(A), CAT, Hyderabad.
6. One copy to HBSJP, M(J), CAT, Hyderabad.
7. One duplicate copy.

YLKR

27/98
II COURT

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN : M(A)

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWAR :
M (J)

DATED: 16/6/98

ORDER/JUDGMENT

M.A/R.A/C.P.NO.

in

O.A.NO. 1588/95

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

YLR

