

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.1778 of 1997

DATE OF ORDER: 12th APRIL, 1999

BETWEEN:

K.BABASUNDER

.. APPLICANT

AND

1. Union of India rep. by its
Secretary to Government,
Ministry of Defence,
Govt. of India,
New Delhi,
2. The Scientific Advisor to the Ministry
of Defence and Director General,
Research and Development,
Directorate of Personnel,
Ministry of Defence,
DHQ Post Office,
New Delhi-11,
3. The Director,
Defence Metallurgical Research Laboratory,
Kanchanbagh,
Hyderabad-58.

.. RESPONDENTS

COUNSEL FOR THE APPLICANT: Mr.N.RAM MOHAN RAO

COUNSEL FOR THE RESPONDENTS: Mr.V.RAJESWAR RAO, Addl.CGSC

CORAM:

HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

HON'BLE SHRI B.S.JAI PARAMESHWAR, MEMBER (JUDL.)

[Signature]

JUDGEMENT

ORAL ORDER (PER HON'BLE SHRI B.S.JAI PARAMESHWAR,
MEMBER (JUDL.))

Heard Mr.Shiva for Mr.N.Ram Mohan Rao, learned counsel for the applicant and Mr.V.Rajeswara Rao, learned standing counsel for the respondents.

2. The applicant herein was initially appointed as Fitter in September, 1966. in DMRL, Hyderabad which was later redesignated as Technician-A with effect from 26.8.95. He was placed under suspension with effect from 23.8.76 and a Charge memo dated 29.4.77 was issued. An inquiry was conducted into the said charge and the Inquiry Officer recorded his finding as below:-

"On the basis of documentary and oral evidence adduced in the case before me and in view of the reasons given above, I hold that the charge framed against Shri K.Balasundar, T.Mate 'C', T.No.226 of DMRL, Hyderabad could not be proved."

3. On the ~~basis~~ ^{basis} of the report of the Inquiry Officer, the disciplinary authority by his proceedings No. CF/1/6/1(MC)/226. dated 29.1.96 (Annexure A-2 at page 16 to the OA) imposed a penalty of reduction of pay by one stage from Rs.1150/- to Rs.1130/- in the time scale of pay of Rs.950/-



1500 for a period of four years with effect from the date of the said order.

4. Against the said penalty order, the applicant approached this Tribunal in OA No.489/96 and the Tribunal vide order dated 13.9.96 disposed of that OA directing the applicant to submit an appeal to the appellate authority. The applicant submitted appeal to the Scientific Advisor to the Minister of Defence. The appellate authority by his proceedings No.RD/Pers-10/21538/96(12)/DMRL, dated 19.12.96 (Annexure A-4 at page 27 to the OA) rejected the appeal and confirmed the punishment.

5. The applicant has filed this OA challenging the orders passed by the appellate authority as well as the disciplinary authority.

6. A reply has been filed by the respondents stating that they have considered the appeal and accordingly they have come to the conclusion that the punishment imposed was proper. They submit that there are no grounds to interfere with the impugned orders.

7. During the course of the hearing, it was submitted that the Inquiry Officer has recorded his finding in favour of the applicant and the disciplinary authority while considering the report of the Inquiry Officer though disagreed, had not given notes of disagreement and sought explanation from the applicant. However, the disciplinary authority before recording his reasons for not agreeing with the report of the Inquiry Officer, should have given

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an opportunity to the applicant to submit his explanation as to the grounds on which he proposed to disagree with the findings recorded by the Inquiry Officer.

8. In the case of "Punjab National Bank v. Kunj Behari Misra ; 1998 SCC (L&S) 1783", the Hon'ble Supreme Court has formed an opinion that when the Inquiry Officer has given report on any articles of charge or charges favourable to the delinquent employee and that the disciplinary authority proposes to disagree with the findings recorded by the Inquiry Officer on any of the charge/charges, then it is obligatory on the part of the disciplinary authority to record note of disagreement and furnish the details of disagreement to the delinquent employee.

9. In the instant case, the disciplinary authority has not prepared the notes of disagreement as to the grounds on which he disagreed with the findings recorded by the Inquiry Officer. In that view of the matter, we feel that imposition of penalty on the applicant without giving him opportunity to explain when the Inquiry Officer had recorded his finding favourable to the applicant, is against the principles of natural justice.

10. In that view of the matter, the order passed by the disciplinary authority dated 29.1.96 and the order passed by the appellate authority dated 19.12.96 are liable to be set-aside. The respondent-authorities are at liberty to proceed from the stage of furnishing notes of disagreement with the report of the Inquiry Officer, to the

applicant and after considering the representation of the applicant, to pass appropriate order. Hence following directions are given:-

a) The impugned orders dated 29.1.96 and 19.12.96 are hereby set-aside;

b) The respondent-authorities shall proceed from the stage of furnishing notes of disagreement to the applicant and consider his representation before passing any order.

11. The respondents shall conclude the disciplinary proceedings within three months from the date of receipt of a copy of this order.

12. With the above directions, the OA is ordered. No order as to costs.

Bindu
(B.S.JAI PARAMESHWAR)
MEMBER (JUDL)

12.4.99

R.RANGARAJAN
(R.RANGARAJAN)
MEMBER (ADMN.)

DATED : 12th APRIL, 1999
Dictated in the open court

vsn

COPY TO:-

1. HONJ
2. HHRP M(A)
3. HBSOP M(J)
4. B.R. (A)
5. SPARE

1ST AND 2ND COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD,

THE HON'BLE MR. JUSTICE D.H. NASIR :
VICE CHAIRMAN

THE HON'BLE MR. H. RAJENDRA PRASAD :
MEMBER (A)

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

THE HON'BLE MR. B.S. JAI PARAMESWAR :
MEMBER (J)

DATED: 12/4/99

ORDER / JUDGEMENT

~~MR. R.A. C.P. NO.~~

IN

D.A. NO. 1778/97

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

ALLOWED.

C.P. CLOSED.

R.A. CLOSED.

DISPOSED OF WITH DIRECTIONS.

DISMISSED.

DISMISSED AS WITHDRAWN.

ORDERED/REJECTED.

NO ORDER AS TO COSTS.

Central Administrative Tribunal
HYDERABAD / DESPATCH

- 6 MAY 1999

HYDERABAD BENCH

3 copies