

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A No.28/93

Date of order: 14/2/2001

J.P.Parashar represented through his legal heirs
Smt.Chandra Prabha Parashar & Ors, R/o Plot No.AC-4, Om
Shiv Colony, Near Rly.Bridge, Jhotwara, Jaipur.

...Applicants.

Vs.

1. Union of India through the Secretary, Mini. of Defence,
New Delhi.
2. Engineer in Chief, Army Headquarter, Kashmir House, New
Delhi.
3. Chief Engineer, Southern Command, Pune.
4. Chief Engineer, Jaipur Zone, Jaipur.
5. Commander Works Engineer, Jaipur.
6. Sh.R.S.Gelawat, SO-I, Chief Engineer, Central Air
Command, Allahabad.
7. Garrison Engineer, MES, Nasirabad, Distt.Ajmer, Raj.

...Respondents.

Mr.Hemant Gupta, Proxy of Mr.Azgar Khan - applicants' counsel
Mr.V.S.Gurjar - Counsel for respondents Nos.1-4.

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member

Hon'ble Mr.Gopal Singh, Administrative Member.

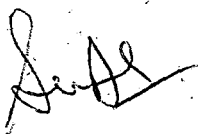
PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

In this Original Application filed under Sec.19 of the
Administrative Tribunals Act, 1985, the applicants make a
prayer to quash and set aside the orders dated 8.6.90
(Annx.A5), 21.8.91 (Annx.A8), 22.2.91 (Annx.A9) and 30.6.92
with all consequential benefits.

2. Facts of the case as stated by the applicants are that
Shri J.P.Parashar was initially appointed as Pump Assistant
and was confirmed on the post after putting in 3 years of
service. He was promoted as Refg. Mechanic in the year 1974

He was dismissed from service w.e.f. 1.1.80. Feeling aggrieved the applicant preferred a Writ Petition before the High Court which was allowed vide judgment dated 30.1.85 and the applicant was reinstated back in service on 20.9.85. Subsequently, the applicant promoted on the post of Charge Mechanic (Refg) on 8.9.84 and thereafter transferred to Nasirabad on 1.1.88. While working on the post of Charge Mechanic (Refg.) at Nasirabad, a memorandum of charge sheet dated 8.6.90 under Rule 15 of the CCS(Conduct) Rules, 1965 was served upon the applicant. The applicant submitted a representation. Thereafter, a joint enquiry was held alongwith S/Shri Puran Mal and Vinod Kumar Arora. Shri S.K.Sharma was appointed as Enquiry Officer and the Enquiry Officer held the applicant, S/Sh.Puran Mal and Vinod Kumar Rora as guilty of the charges levelled against them. The appeal filed against the punishment imposed was dismissed. It is stated that the applicant was not given copy of the documents so demanded. The impugned order of punishment dated 30.6.92 is not sustainable in law because the penalty was imposed against the settled principles of law and the same is disproportionate to the gravity of the charges. Therefore, on the basis of the averments made in the O.A the applicant sought the relief as above.

3. Reply was filed. In the reply the allegation of not supplying copy of the documents to the applicant was denied and it is further stated that the order imposing penalty is in no way arbitrary, illegal and against the principles of law. It is also denied that the punishment so imposed is disproportionate to the gravity of the charges and stated specifically in the reply that the grounds taken by the applicant in the O.A are not sustainable, therefore, the O.A devoid of any merit is liable to be dismissed.



4. Rejoinder was filed reiterating the facts mentioned in the O.A which is on record.

5. Heard the learned counsel for the parties and also perused the whole record.

6. On a perusal of the averments made by the parties it does not appear at all that while conducting the enquiry, the Enquiry Officer has not followed the rules/procedure at the time of conducting the enquiry or the Enquiry Officer has in any way violated the principles of natural justice. We have also perused the charges against the applicant and the evidence in support of those charges which came before the Enquiry Officer and in our considered opinion that the charges levelled against the applicant are proved and the findings of the Enquiry Officer cannot be said to be perverse in any way. Moreover, looking to the gravity of the charges, we are of the considered opinion that the punishment so imposed on the applicant is not disproportionate.

7. In Kuldeep Singh Vs. Commissioner of Police & Ors, 1999(1) SLR 283, Hon'ble Supreme Court held that the Court cannot sit in appeal over those findings and assume the role of the appellate authority. But this does not mean that in no circumstance can the court interfere. The Power of judicial review available to the High Court as also to this Court under the Consitution takes in its stride the domestic enquiry as well and it can interfere with the conclusions reached therein if there was no evidence to support the findings or the findings recorded were such as could not have been reached by an ordinary prudent man or the findings were perverse or made at the dictate of the superior authority.

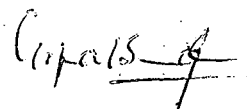
8. In Apparel Export Promotion Council Vs. A.K.Chopra, 1999(2) ATJ SC 327, Hon'ble Dr.A.S.Anand, Chief Justice, observed that High Court cannot substitute its own conclusion

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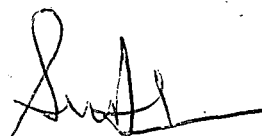
with record to the guilt of the delinquent for that of departmental authorities unless the punishment imposed by the authorities is either impermissible or such that it shocks the conscience of the High Court.

9. On the basis of the settled legal position and the facts and circumstances of this case, we do not find any basis to interfere in the impugned orders passed by the respondents and the O.A having no merit is liable to be dismissed.

10. We, therefore, dismiss the O.A having no merits with no order as to costs.


(Gopal Singh)

Member (A).


(S.K. Agarwal)

Member (J).