

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

O.A.No.49/2000

Date of order: 10/7/2001

1. Hukum Singh, S/o Sh Narain Sirkoli, Field Orderly,
O/o Dy.Controller of IBM, Ajmer.

...Applicant

Vs.

1. Union of India Mini. of Mines & Minerals, Deptt. of
Indian Bureau of Mines, Indira Bhawan, Nagpur
through Controller General.

2. Head of Office, Indian Bureau of Mines, Indira
Bhawan, Civil Lines, Nagpur.

3. Dy.Controller of Mines, IBM, Ajmer.

...Respondents.

Mr.H.S.Khandelwal - Counsel for applicant

Mr.Manu Bhargava - for respondents.

CORAM:

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

Hon'ble Mr.A.P.Nagrath, Administrative Member.

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

In this Q.A filed under Sec.19 of the ATs Act, 1985,
the applicant makes a prayer:

(i) to quash and set aside the orders at Annx.A6-A dated
10.1.2000 by which the disciplinary authority has imposed
the penalty of reduction by one stage from Rs.2605 to 2550
in the time scale of Rs.2550-3200 for a period of 2 years.

(ii) to quash and set aside the order Annx.A6-B by which
the period of suspension was ordered to be treated as non-
duty.

(iii) to quash and set aside the order Annx.A6-C by which
the applicant was directed to join the duties after
revocation of suspension.

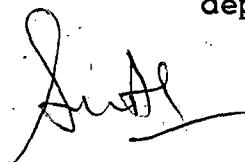
2. In brief, facts of the case as stated by the applicant are that while he was working on the post of Field Orderly, IBM, Ajmer, the applicant was arrested in a criminal case registered u/s 19/54 of the Rajasthan Excise Act on 10.9.97 and he was released on bail on 14.9.97. The information regarding custody of the applicant was furnished by the SHO, Adarshnagar Police Station, Ajmer, to the department on 12.9.97 but the applicant did not inform. Thereafter, the applicant was served with a charge sheet under Rule 14 of the CCS(CCA) Rules, 1965 and the applicant was suspended w.e.f. 10.9.97 vide order dated 23.9.97 and the following charges were framed against the applicant.

- (i) He had engaged himself directly or indirectly in a private trade/business of selling liquor without any licence in contravention to Rule 15 of CCS (Conduct) Rules, 1964 and
- (ii) he failed to intimate about his arrest by the police authorities on 10.9.97 while doing the said trade/business.

It is stated that the applicant was acquitted from the criminal case pending against him U/s 19/54 of the Rajasthan Excise Act, by the Judicial Magistrate No.4, Ajmer vide its judgment dated 7.9.99 but the applicant was found guilty in the enquiry conducted against the applicant and the disciplinary authority after considering the representation against the enquiry report, passed the penalty order dated 10.1.2000. The applicant filed an appeal which was rejected.

It is stated that with the order of revocation, the suspension period from 10.9.97 to 10.1.2000 has been ordered to be treated as non-duty. This also amounts to a penalty.

It is stated that the applicant has been acquitted from the criminal charge and there is no necessity to inform the department regarding his arrest, therefore, not informing



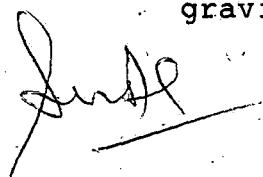
the detention does not amount to misconduct. It is also stated that the penalty imposed upon the applicant is excessive and disproportionate to the gravity of the charges. The applicant is a low paid employee and his mother is 70 years of age and is the patient of T.B, therefore, imposing such a penalty on the applicant is excessive and treating the suspension period as non-duty is also against the spirit of the rules and the disciplinary authority did not consider the objections made by the applicant, therefore the applicant filed the O.A for the relief as above.

3. Reply was filed. In the reply it is stated that the applicant failed to furnish any information regarding his arrest to the department which was his duty. It is stated that since the applicant was in police custody for more than 48 hours, therefore, he was placed under deemed suspension under Rule 10(2) of the CCS(CCA) Rules w.e.f. 10.9.97. It is however admitted that the applicant was acquitted from criminal charge by giving the benefit of doubt. It is also stated that a parallel disciplinary proceedings were initiated against the applicant under Rule 14 of the CCS(CCA) Rules and chargesheet was issued and Enquiry Officer conducted the enquiry found the applicant guilty of both the charges and the enquiry report was submitted to the disciplinary authority who after giving an opportunity to represent, imposed the penalty, as mentioned above and the period of suspension was directed to be treated as spent not on duty. It is stated in the reply that the disciplinary authority has taken rather sympathetic view looking to the family circumstances of the applicant, therefore, the punishment imposed is not disproportionate and the suspension period was rightly treated as not on duty as the

charges against the applicant were proved by the Enquiry Officer and in criminal case the applicant was acquitted not beyond reasonable doubt but acquitted by giving him the benefit of doubt. It is also stated that no rule or principles of natural justice have been violated while imposing penalty whereas a sympathetic view was taken at the time of imposing penalty upon the applicant. The disciplinary authority after considering the facts and circumstances and objections raised by the applicant, has imposed the penalty. Therefore, this O.A devoid of any merit is liable to be dismissed.

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

5. On a perusal of the averments made by the parties, it becomes abundantly clear that the applicant did not inform the respondents regarding his arrest on 10.9.97 and this information was given by the SHO, Police Station Adarsh Nagar, Ajmer, and upon this information the department has only issued an order to place the applicant under suspension. It is also undisputed fact that vide judgment delivered by the Court of Judicial Magistrate First Class No.4, Ajmer, the applicant was acquitted from the charge for the offence under Sec.19/54 of the Rajasthan Excise Act, by giving him benefit of doubt. It is also an undisputed fact that the Enquiry Officer held the applicant guilty for both the charges and on the basis of holding the applicant guilty the disciplinary authority imposed penalty after consideration of the representation filed by the applicant. In our view, the punishment imposed upon the applicant cannot be said to be excessive/disproportionate to the gravity of the charges.



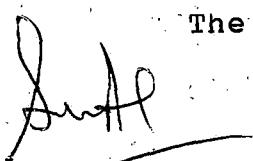
6. On the perusal of the averments made by the parties, it is very much clear that the enquiry appears to have been conducted according to the Rles/procedure and no rule/procedure appears to have been violated and in no case, the principles of natural justice appears to have been violated.

7. The Court/Tribunal can only interfere in the departmental proceedings where the High Court/Tribunal is of the opinion that there has been denial of reasonable opportunity and/or there has been violation of principles of natural justice and the findings are based on no evidence or the punishment is totally disproportionate to the proved mis conduct of an employee.

8. In B.C.Chaturvedi Vs. UOI, (1995) 6 SCC 750, it was held that the Court/Tribunal may interfere where the authority held the proceedings against the delinquent officer in a manner in consistent with the rules of natural justice or in violation of statutory rules prescribing the mode of enquiry or whether conclusion or findings reached by the departmental enquiry is based on no evidence.

9. In Food Corporation of India Vs. Padma Kumar Dhuvan, 1999 SCC(L&S) 620, it was held by Hon'ble Supreme Court that the applicant has to establish that what prejudice has been caused him on account of nonsupply of documents.

10. In Kuldeep Singh Vs. Commissioner of Police & Ors 1999(1) SLR 283, Hon'ble Supreme Court held that normally the High Court and this Court would not interfere with the findings of fact recorded at the domestic enquiry but if the finding of guilt is based on no evidence it would be purverse finding and would be amenable to judicial scrutiny. The findings recorded in domestic enquiry can be



characterised as perverse if it is shown that such a finding is not supported by any evidence on record or is not based on any evidence on record or no reasonable person would have come to such findings on the basis of that evidence.

11. In Apparel Export Promotion Council Vs. A.K.Chopra, 1999(2) ATJ SC 227, it was held that once the finding of fact based on appreciation of evidence are recorded - High Court in writ jurisdiction may not normally interfere with those findings unless it finds that the recorded findings were based either on no evidence or that the findings were wholly perverse and or legally untenable.

12. As regards, the order passed by the competent authority regarding treating the suspension period as on not duty, it is an undisputed fact that the applicant was suspended after his arrest in a case registered at Police Station Adarshnagar, Ajmer, under Sec.19/54 of Rajasthan Excise Act and the Judicial Magistrate No.4, Ajmer, acquitted the accused by giving him the benefit of doubt. A departmental enquiry was also simultaneously conducted against the applicant and the applicant was found guilty of both the charges, therefore, in our view, treating the suspension period w.e.f. 10.9.97 to 10.1.2000 as not spent on duty cannot be said to be arbitrary and against the rules.

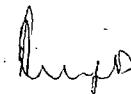
13. In O.A No.457/96, N.C.Ram Vs. UOI & Ors, decided by this Tribunal on 12.11.99, the accused against whom a criminal case under Sec.54 of Rajasthan Excise Act was registered and after trial, the accused alongwith others was acquitted by giving the benefit of doubt. The period of suspension was held to be as not on duty. The case of this applicant is squarely covered by the order passed in N.C.Ram

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(supra). Therefore, we do not find any merit in the contention of the applicant that the period of his suspension dated 10.9.97 to 10.1.2000 should be treated as spent on duty and we do not find any basis to interfere in the impugned orders.

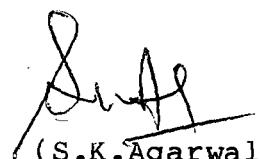
14. In view of above all, we do not find any merit in this O.A and the same is liable to be dismissed.

14. We, therefore, dismiss the O.A having no merit with no order as to costs.



(A.P.Nagrath)

Member (A).



(S.K.Agarwal)

Member (J).