

Central Administrative Tribunal  
Jabalpur Bench

OA No.1041/04

Indore, this the 17<sup>th</sup> day of August, 2005.

C O R A M

Hon'ble Mr. M.P. Singh, Vice Chairman  
Hon'ble Mr. Madan Mohan, Judicial Member

Indu Bhushan Adhikari  
S/o Late Radha Charan Adhikari  
R/o 48, R.K. Colony  
Ranjhi, Jabalpur.

Applicant

(By advocate Shri V. Tripathi)

Versus

1. Union of India through  
Secretary  
Ministry of Defence Production  
New Delhi.
2. Chairman/Director General  
Ordnance Factory Board  
10-A S.K. Bose Marg  
Kolkata
3. General Manager  
Gun Carriage Factory  
Jabalpur.

Respondents.

(By advocate Shri S.K. Mishra)

O R D E R

By Madan Mohan, Judicial Member

By filing this OA, the applicant has claimed the following reliefs:

- (i) Set aside the orders dated 21.11.1992 (Annexure A1); 27.1.1994 (Annexure A2) and 17.2.2004 (Annexure A3) with all consequential benefits.



2. The brief facts of the case are that the applicant who was initially appointed as LDC on 2.8.1973 under respondent No.3 was promoted as UDC and then as Assistant on 31.8.2000. Respondent No.3 issued a charge sheet on 28.8.92 under Rule 16 of the CCS (CCA) Rules alleging that the applicant had failed to keep case sheet of late Prakash Chandra Dev, Senior Charge man, Naval Armament, Ordnance Factory, Khamaria in safe custody, resulting in loss of valuable documents. He submitted his reply on 10.10.92 denying the charges. The applicant demanded to conduct a departmental enquiry so that the responsibility could be fixed. His demand was ignored by the disciplinary authority and without giving proper opportunity to the applicant to defend, the disciplinary authority passed Annexure A1 order dated 21.1.92 imposing on the applicant a penalty of withholding of his future increments for a period 2 years without cumulative effect. The applicant preferred an appeal to respondent No.2. The appeal was rejected vide Annexure A2 order dated 27.1.1994 without application of mind. He then preferred a revision petition to the revising authority on 6.5.94, which was also rejected vide Annexure A3 order dated 17.2.2004. Hence this OA is filed.

3. Heard learned counsel for both parties. It is argued on behalf of the applicant that after receiving the charge sheet, the applicant had demanded to conduct a departmental enquiry so that real culprit could be traced out. But in spite of repeated request of the applicant, the disciplinary authority did not conduct the DE. The disciplinary authority had not assigned any reason as to why a departmental enquiry was not necessary in the case. Learned counsel of the applicant has drawn our attention towards Annexure A5. In its last para, it is mentioned that "in case your honour does not agree with my reply then I may please be given an opportunity to defend my case by way of Court of Enquiry under Rule 16 (i)(b) of CCS (CCA) Rules, 1965". But the respondents ignored it. Learned counsel for the applicant has further drawn our attention towards 2001 (9) SCC 180 O.K.Bhardwaj Vs. Union of India and others, decided on 4<sup>th</sup> October,



1996 and the judgement of the High Court of M.P. in WP No.906/98 – N.S.Sundela Vs. Chairman, M.P.Electricity Board and others, decided on 26<sup>th</sup> June 2005. The Supreme Court has held in the aforesaid ruling that an opportunity of hearing is essential even in case of a minor penalty and the High Court of M.P. has held that if the charges are factual and if they are denied by the delinquent employee, an enquiry should also be called for. Hence this OA deserves to be allowed.

4. In reply, learned counsel for respondents argued that this is a case of minor penalty. Hence a detailed enquiry is not required to be conducted according to rules. A charge sheet under Rule 16 of the CCS (CCA) Rules was duly issued to the applicant and he had submitted his representation. After due consideration of the representation, the disciplinary authority had passed the impugned order which was confirmed by the appellate authority and the revisionary authority. Hence the applicant is not at all prejudiced by the action of the respondents in any way. This OA deserves to be dismissed.

5. After hearing learned counsel for the parties and careful perusal of the records, we find that the Hon'ble Supreme Court has in O.K.Bharadwaj Vs.Union of India & others (Supra) held that opportunity of being heard is essential even in case of minor penalties. The High Court of Madhya Pradesh in the case of N.S.Sundela Vs.Chairman, MP Electricity Board and others (Supra) has also held that if the charges are factual and if they are denied by the delinquent employee, an enquiry should also be called for. In the present case, the applicant has alleged that the documents he demanded were not handed over to him and hence he is not at all responsible for not producing these documents before the concerned officer and he has also prayed to the respondents to conduct a departmental enquiry as per rules. In view of the aforesaid rulings of the Supreme Court and the High Court of Madhya Pradesh, we are of the considered opinion that this OA deserves to be allowed. Hence the impugned orders passed by the disciplinary authority Annexure A1, by the appellate



authority Annexure A2 and by the revisionary authority Annexure A3 are quashed and set aside and the matter is remitted back to the disciplinary authority to conduct an enquiry into the matter in accordance with law.

6. The OA is disposed of as above. No order as to costs.

  
(Madan Mohan)  
Judicial Member

  
(M.P. Singh)  
Vice Chairman

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पूर्णांकन सं. ओ/न्या.....जबलपुर, दि.....  
पुलिसिंग वार्ड नं. १

- (1) सलिल, उत्तर भारत रेलवे एवं नेशनल एयरलाइन्स, जबलपुर
- (2) आपेक्षक श्री/महिला व्यक्ति.....दंगोऽगांसल
- (3) परमहीन श्री/महिला/व्यक्ति.....दंगोऽगांसल
- (4) दंगोऽगांसल, कौपाडा, जबलपुर (जबलपुर)

सूचना एवं आवश्यक कार्यकारी देते  
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सूचना एवं आवश्यक कार्यकारी देते

*S. Paul DNO/DR  
S. K. Mishra DNO/DR*

सूचना एवं आवश्यक कार्यकारी देते

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*16/09/01  
25/8/05*