

CENTRAL ADMINISTRATIVE TRIBUNAL

JABALPUR BENCH, JABALPUR

O.A. No.1079 of 2004

Date of order : 6th May, 2005

C O R A M

Hon'ble Mr. M.P.Singh, Vice-Chairman
Hon'ble Ms. Sadhna Srivastava, Member(J)

Lal Muni Ram, son of late Shri Bholal Ram, resident of 1256, Type I, Sector I, VFJ Estate, Jabalpur (M.P.) applicant

Vrs.

1. The Union of India through the Secretary, Production and Supplies, Ministry of Defence "G" Block, New Delhi.
2. The Chairman and DG of Ordnance Factory Board, 10-A, Shaheed Khudiram Bose Road, Kolkata 700 001.
3. The General Manager, Vehicle Factory, Jabalpur (M.P.).

..... Respondents.

Counsel for the applicant : Shri J.K.Pillai on behalf of of Sh. H.Patel.Adv.
Counsel for the respondents : Shri Manish Chourasia

O R D E R

By Sadhna Srivastava, Member(J) :-

This application has been dismissed soon after hearing the counsel for the parties on the date of hearing i.e. 30.3.2005. The reasons for the order have to be provided now.

2. The facts are that the applicant employed as Fitter in Vehicle Factory was found pouring petrol in his Scooter at 5 A.M. On 30.12.1994 in the premises of Factory. The bottle in which petrol was taken by the applicant from petrol tank was seized at spot and

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sealed. The applicant was suspended by order dated 30.12.1994. Thereafter, he was served a charge-sheet for major penalty and after due inquiry, punishment of removal from service was awarded by order dated 8.2.1996. The appeal and the revision were dismissed on 30.3.1998 and 23.11.1999 respectively. The applicant then filed O.A. No.37 of 1999 for quashing the punishment order. A Division Bench of the Tribunal at Jabalpur vide order dated 11.11.2002 held (a) there was no violation of principle of natural justice or statutory regulation; (b) it was not a case of no evidence i.e. findings are based on evidence and finding of inquiry officer or disciplinary authority as the court of appeal unless the findings are perverse. The Tribunal found that the charge was duly established against the applicant. The reasons for the finding of the Tribunal are not far to seek. The Tribunal in its judgment at the end of para 6 has referred to the statement of the applicant before the orderly officer immediately after the incident where he accepted his mis-conduct. In para 6.1 of the judgment it is mentioned that the applicant admitted before the inquiry officer that the bottle was found lying near his scooter. The prosecution witnesses stated that they had seen the applicant pouring petrol in his scooter. In the circumstances, the Tribunal held that apparently there was reasonable ground for the inquiry officer or the disciplinary authority to believe the prosecution witnesses. Thus, the mis-conduct in the opinion of the Tribunal was established. At the end of the judgment, the Tribunal, however, agreeing with the counsel for the applicant, held that the appellate or revisional authority had not given reason as to whether the punishment of removal from service was appropriate in the instant case. It is only on this limited ground that the case was remanded to the authority to provide reason to the fact that the punishment of removal from service was appropriate. The appellate and revising authority after remand,



have passed the orders on 15.1.2003 and 8.2.2003 respectively and on reconsideration reduced the quantum of punishment inasmuch as the punishment of removal from service has been moderated to compulsory retirement from service.

3. The applicant in the instant O.A. has advanced pleadings as if we are required to decide the entire controversy again. Law does not permit us to do that way. Once a Division Bench has confirmed the findings of inquiry officer and disciplinary authority, we as a coordinate bench, cannot sit over the judgment. It would appear that the order of disciplinary authority was not set aside. Only the order of appellate and revising authority was set aside for the limited purpose of reconsideration of quantum of punishment. Therefore, we are only required to consider if the punishment of compulsory retirement is appropriate in the circumstances of the case. If the applicant was aggrieved with the order of the Tribunal, it was open to him to assail the judgment before the appropriate forum as provided by law. Having not done that, the judgment dated 11.11.2002 has attained finality except on the limited question on the quantum of punishment.

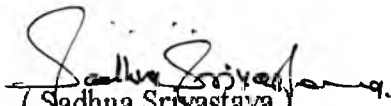
4. As regards quantum of punishment again, the jurisdiction of the Tribunal to interfere, will arise only if the same is absolutely disproportionate, excessive and unreasonable. The decision is pointer to the effect that the Tribunal cannot substitute its discretion for the discretion exercise by the competent authority. The appellate and revisional authority were of the view that the moderation was required to the extent that the punishment of removal from service be substituted by compulsory retirement. We do not find any reasonable ground to say that it should be further moderated. We are of the opinion that having regard to establish mis-conduct of the applicant, it is proper not to keep the applicant in employment in future. The order of compulsory retirement by way

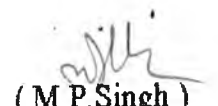
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of penalty means exactly that. Punishment of compulsory retirement affects the future ^{✓ service ✓} ~~employment~~ only. He will not loose the benefit of past service. In fact, the revising authority's order dated 8.2.2003 clearly mentions that the applicant will be entitled to pension, gratuity etc. due to him under the rules, therefore, we do not find any ground to interfere.

5. The O.A. is, accordingly, dismissed without any order as to cost.


(Sadhna Srivastava)
Member(Judicial)


(M.P. Singh)
Vice-Chairman

mps.

प्रमाणन सं ओ/न्या..... जयपुर, दि.....
पतिजिनि न्याय विभाग:-
(1) सचिव, न्याय विभाग एवं न्यायिक शिक्षण, जयपुर
(2) अवर सचिव, न्याय विभाग, जयपुर
(3) प्रवर्तक न्यायिक शिक्षण, जयपुर के कार्यालय
(4) न्यायिक शिक्षण, जयपुर के कार्यालय
सूचना एवं आवश्यक कार्यनाही हेतु
कृपया रजिस्ट्रार

H.P. Patel P.H. JBP
M. Chavhan
22.11.17

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used
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