

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 294 of 2004

Jabalpur, this the 16th day of December 2004

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

Suraj Singh Kunjam,
Son of Chhingoo Singh Kunjam,
aged about 45 years, R/o.
Kukam Bandariya, Post-Dhanwani,
Tehsil Kundam, Jabalpur (MP). ... Applicant

(By Advocate - None)

V e r s u s

1. Union of India, Ministry of
Defence, through it's Secretary,
New Delhi.
2. The Director General,
Ordnance Factories Board,
Kolkatta.
3. The General Manager, Gun
Carriage Factory, Jabalpur (MP)... Respondents

(By Advocate - Shri P. Shankaran)

O R D E R

By Madan Mohan, Judicial Member -

By filing this Original Application the applicant has
claimed the following main reliefs :

"I- the impugned order removing him from service
be kindly quashed,

II- the impugned order removing him from service
dated 27.7.1996 be kindly quashed. The above order
wasn't supplied to him, hence not filed,

III- the order rejecting his appeal, mercy appeal,
representation filed as Annexure A-3, A-4 and A-5
be also quashed."

2. The brief facts of the case are that the applicant was
working as a Labour with the respondents Gun Carriage
Factory, Jabalpur. He came to know that the respondents had
passed an order of removal from service ex-parte, without
affording any opportunity of being heard. This action of
the respondents is arbitrary and against all canons of
natural justice and fair play. As soon as he received the



knowledge of removal he preferred a mercy appeal to the Chairman, Ordnance Factory Board. Later vide order dated 31.12.2002 (Annexure A-3) the respondents rejected the representation dated 20.8.2002 saying that he did not appeal against the removal order dated 27.7.1996. Further his mercy prayer was rejected vide order dated 6.2.2003 saying that if it is filed in two sets then the same can be sent for consideration to Chairman, Ordnance Factory Board, Kolkatta. Thereafter vide order dated 8.8.2003 (Annexure A-5) the appeal of the applicant was also rejected stating that it suffers from latches. The applicant's case was never examined by the respondents on merits. Hence, this Original Application is filed.


3. None is present for the applicant. We proceed to dispose of this Original Application by invoking the provisions of Rule 15 of CAT (Procedure) Rules, 1987. Heard the learned counsel for the respondents and perused the pleadings and records very carefully.

4. The learned counsel for the respondents argued that the applicant was continuously unauthorisedly absenting himself from duty from 2.1.1985 to 3.8.1985. Consequent to this misconduct he was charge sheeted under Rule 14 of CCS(CCA) Rules, 1965 by the disciplinary authority vide memo dated 16.8.1985. The applicant did not reply to the memo of charges. Hence, the disciplinary authority appointed an enquiry officer to enquire into the charges vide order dated 31.10.1995. The enquiry officer sent the summons to the applicant to appear before the Court of enquiry on two different occasions. He did not even given any reply for these notices. On 26.3.1996, the applicant appeared before the enquiry officer and accepted that he has received the charge sheet alongwith the annexures. He also admitted that he could not send his return reply of defence due to certain



personal problems. The enquiry officer read out the charges framed against the applicant on the said date and the applicant accepted the charges. The enquiry proceedings came to an end and the enquiry officer submitted his report stating that the charges have been established. The applicant having kept silent for a period of 7 years since the imposition of the penalty, appealed against the order of the disciplinary authority through his appeal dated 17.1.2003. The appellate authority vide order dated 18.7.03 dismissed the appeal as being time barred. The applicant has also not preferred any grounds for condonation of delay. As the charges against the applicant are established by his own admission, the action of the respondents is perfectly legal and justified.

5. After hearing the learned counsel for the respondents and on careful perusal of the pleadings and records, we find that the enquiry officer had given sufficient opportunity to the applicant i.e. for two different occasions, to present his case. He did not even give any reply to the summons issued by the enquiry officer. When he appeared on 26.3.1996 before the enquiry officer, he accepted the charges. On perusal of Annexure R-1, we find that in reply to question No. 4 as to whether he accepts the charges levelled against him, he states that he admits the charges levelled against him in toto in full sense. Hence, under these circumstances the departmental enquiry was concluded and the penalty of removal was imposed on him vide order dated 27.7.1996 by the disciplinary authority. The applicant did not file any appeal and kept silent for about 7 years. He filed the appeal against the order of the disciplinary authority on 17.1.2003 without preferring any grounds for condonation of delay after a gap of almost 7 years. The appellate authority vide its order dated 18.7.2003 dismi-



ssed the appeal on the ground of limitation. The applicant's mercy appeal was also rejected vide order dated 8.8.2003 (Annexure A-5). We do not find any ground to interfere with the orders passed by the respondents.

6. Hence, considering all the facts and circumstances of the case, we are of the opinion that the applicant has failed to prove his case and this Original Application is liable to be dismissed as having no merits. Accordingly, this Original Application is dismissed. No costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

"SA"

पृष्ठान्न सं ओ/न्यः.....जबलपुर, दि.....
प तिलिपि अने दिनाः

- (1) सचिव, उच्च न्यायालय एवं एडवोकेट जनरल, जबलपुर
- (2) आदेशक श्री/श्रीमती, पु.....के काउंसल
- (3) प्रत्यक्षी श्री/श्रीमती/पु.....के काउंसल
- (4) बांधपाल, के.प्र.अ., जबलपुर न्यायापीठ
सूचना एवं आवश्यक कार्यवाही हेतु
उप/रजिस्ट्रार

Sunil Chauhan
Shankar
B.V. Rao

Issued
on 17.12.04
BS