

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

OA No.333/04

Jabalpur, this the 10th day of March, 2005

CORAM

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

K.S.Raghuvanshi
S/o Shri Chhotelal Raghuvanshi
Civil Motor Driver, T.No.5108/NIE
Section TPS, Vehicle Factory,
Jabalpur (M.P.)

Applicant

(By advocate Shri S.Nagu)

Versus

1. Union of India through
Secretary, Ministry of
Defence, Production &
Supplies, South Block
New Delhi.
2. Chairman, Ordnance Factory Board
10-A, Khudiram Bose Road
Kolkata.
3. General Manager
Vehicle Factory,
Jabalpur (M.P.)

Respondents.

(By advocate None)

O R D E R

By Madan Mohan, Judicial Member

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

- (i) To quash the impugned order of penalty dated
2.11.2001 (Annexure A3); the appellate order
dated 27.5.03 (Annexure A5) and the revisional
order dated 24.11.03 (Annexure A7).
 - (ii) To declare that the action of passing the impugned
orders is arbitrary, unlawful and unwarranted.
2. The brief facts of the case are that the applicant was
appointed as civil motor driver in 1989 and was posted as
CMD in the TPS Section Plant II under respondent No.3.

He was detailed to drive the vehicle of Joint General Manager
of Vehicle Factory, Jabalpur. A charge sheet u/r 16 dated



9.8.01 (Annexure A1) was issued to the applicant, alleging that the charges of (i) wasting time in M.T. Section while on duty and (ii) instigating the CMDs of MT Section not to check engine oil, brake oil and water in the vehicle when detailed on duty. The applicant submitted a representation dated 28.8.01 (Annexure A2) and sought a personal hearing. No sufficient opportunity was given to the applicant to prove his defence and no proper procedure was followed as per Rule 14 (3) of CCS (CCA) Rules 1965. Without applying its mind to the request for following the procedure mentioned in the Rules, the disciplinary authority straightaway inflicted the penalty of withholding one increment for a period of one year without cumulative effect, vide impugned order dated 21.1.2001 (Annexure A3). The applicant preferred an appeal dated 3.12.01 (Annexure A4) but it was rejected vide order dated 27.5.02. The applicant preferred a revision petition dated 1.8.02 which was also rejected vide impugned order dated 24.11.03 (Annexure A7). Hence this OA is filed.

3. Heard the learned counsel for the applicant. None is present for the respondents. Hence the provision of Rule 16 of CAT (Procedure) Rules, 1987 is invoked.

4. It is argued on behalf of the applicant that the respondents have not followed the mandatory procedure as laid down in CCS (CCA) Rules and did not consider the contention of the applicant and without giving a reasonable opportunity of hearing to the applicant, they have passed the impugned order. Our attention is drawn towards 2003 (3) ATJ CAT Mumbai Bench 605 Narain Parasuram Pishte Vs. UOI decided on 28.2.03 in which it is held that even in a minor penalty case, under Rule 16 of CCS (CCA) Rules, an enquiry should have been conducted. The impugned

Orders passed by the respondents are not speaking orders and without following the mandatory procedure as laid down in the Rules. Hence the impugned orders are liable to be quashed and set aside.

5. After hearing the learned counsel for the applicant and carefully perusing the records, we find that the applicant had submitted his reply against the charge sheet which was issued by the respondents. The statement of defence dated 28th July 2001 submitted by the applicant was carefully considered by the disciplinary authority and it was not found satisfactory. We have perused the ruling cited by the applicant i.e. 2003 (3) ATJ 605 CAT, Mumbai Bench in which it is mentioned that "the discretion is vested with the disciplinary authority either to allow or to deny the same. The said discretion is to be exercised in a judicious way and if not so exercised, it is subject to judicial review". It is further held that "the applicant was charge sheeted under Rule 16 of CCS (CCA) Rules, 1965 - Denied the charges - Given 15 days' time to file representation - Applicant demanded enquiry report - Denied on the ground that it is an official document - Held authorities have not only denied the applicant a reasonable opportunity of hearing but also thereby has denied him the opportunity of proper representation as would be needed under Rule 16(1)(a)."

6. In this regard, it is argued on behalf of the respondents that in the present case, the applicant has not demanded any enquiry report. Hence we have perused the ruling cited in 2002 SCC L&S 188 O.K.Bhardwaj Vs. UOI decided on 4th October 1996 in which the Hon'ble Supreme Court has held that an opportunity of hearing to the delinquent employee in case of a minor penalty is necessary. It does not mean that a detailed enquiry was needed in this case. Due opportunity of hearing was given to the applicant by the respondents. He filed a representation against the charge sheet of minor penalty under rule 16 of CCS (CCA) Rules and he filed an appeal against the order passed by the appellate authority. Hence it cannot be said that due opportunity was not given to him by the

respondents. We have perused the impugned orders also, passed by the disciplinary authority dated 2.11.2001 (Annexure A3), by the appellate authority dated 27.5.02 (Annexure A5) and by the revisional authority dated 24.11.2003 (Annexure A7). These orders are speaking orders and passed after considering the contentions of the applicant and having sound reasons. It cannot be said that these orders are passed without application of mind by the authorities concerned. The applicant could not show any proof of malafide against him by the authorities concerned.

7. Considering all the facts and circumstances of the case, we find that the OA has no merit. Accordingly the OA is dismissed. No costs.

(Madan Mohan)
Judicial Member

(M.P.Singh)
Vice Chairman

aa.

पृष्ठांकन सं ओ/नं. जयलपुर, दि.

पतिलिपि वापस मिले

(1) सचिव, उच्च न्यायालय न्याय प्रशासन, जयलपुर

(2) आदेशक श्री/श्रीमती/शु. के काउंसल

(3) प्रत्यक्षी श्री/श्रीमती/शु. के काउंसल

(4) बांधपाल, को.प्र.अ., जयलपुर न्यायाधीश

सूचना एवं आवश्यक कार्यवाही हेतु

उप रजिस्ट्रार

Issued
On 14.3.05
BS

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