

Central Administrative Tribunal
Jabalpur Bench

OA No.444/04

Indore, this the 18th day of August, 2005.

C O R A M

Hon'ble Mr.M.P.Singh, Vice Chairman

Hon'ble Mr.Madan Mohan, Judicial Member

R.K.Mishra
S/o late H.P.Mishra
Working as UDC, Section F-II
Ordnance Factory
Khamariya
Jabalpur.

Applicant

(By advocate Shri A.S.Raizada)

Versus

1. Union of India through
Secretary
Ministry of Defence
New Delhi.
2. Chairman
Ordnance Factory Board
10-A, S.K.Bose Marg
Kolkata.
3. General Manager
Ordnance Factory
Khamaria.

Respondents.


(By advocate Shri S.P.Singh)

O R D E R

By Madan Mohan, Judicial Member

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

- (i) Quash the order of penalty-dated 15.4.2002.
- (ii) Quash the order passed by appellate authority dated 16.1.2004.
- (iii) To grant all consequential reliefs.



2. The brief facts of the case are that the applicant who joined the service of the respondents in the Ordnance Factory, Khamaria as Darban was promoted as Checker, then LDC and thereafter as UDC. He was removed from service, which was challenged before the CAT and then before the High Court. The High Court passed an order in favour of the applicant. Thereafter the respondents issued a charge sheet against the applicant alleging that the applicant had been helping persons in claiming false LTC bill. On denying the charges, the General Manager imposed on the applicant the penalty of reduction in pay by two stages for two years with cumulative effect. The applicant preferred an appeal which was rejected by the appellate authority. Hence this OA is filed.


3. Heard learned counsel for both parties. It is argued on behalf of the applicant that three charges were levelled against the applicant. The enquiry officer in his report had mentioned that charge No.3 was proved but charge No.2 was not proved. Charge No.2 was the only important charge against the applicant. The charge No.2 levelled against the applicant was that he supplied false/invalid ticket numbers and assured the workers that he would manage everything for settlement of the issue. The disciplinary authority without any cogent reason had passed a dissenting note and without considering the representation filed by the applicant imposed the penalty of reduction in pay of the applicant by 2 stages for two years with cumulative effect. The appeal filed by the applicant has been rejected by the appellate authority. The whole action of the respondents is against rules and law. Hence the applicant is entitled for the reliefs claimed.

4. In reply, learned counsel for the respondents argued that a joint complaint was received by respondent No.3 that the applicant had taken 40% amount as commission for advance in LTC claim. After preliminary investigation by Sr.Security Officer, the applicant was charge sheeted under Rule 14 of the CCS (CCA) Rules for the offence of gross misconduct. Charge Nos.1 & 3 were fully established.



However, the disciplinary authority did not agree with the finding in regard to charge No.2 and recorded his reasons for disagreement. The applicant was given an opportunity to file representation against the dissenting note and after considering the representation of the applicant the impugned order of punishment was passed by the disciplinary authority. The appellate authority also considered his appeal. The impugned orders are perfectly speaking and reasoned orders. Learned counsel for the respondents has drawn our attention towards the statement of Jagdish Oprasad and Chhuttu Lal. Due opportunity of hearing was given to the applicant. The action of the respondents is perfectly legal and justified.

5. After hearing learned counsel for both parties and careful perusal of the records, we find that in the report of the enquiry officer, charge No.2 was found not proved. We have perused Annexure R1 dated 1.2.2000 in which the disciplinary authority has mentioned cogent reasons about drawing his inference that charge No.2 is also proved and he issued the show cause notice to the applicant. The applicant submitted a representation against the dissenting note to the disciplinary authority. We have perused the statement of Jagdish Prasad and Chhuttu Lal recorded by the enquiry officer. They have clearly stated that due to non-availability of tickets and on account of fraud played on them by the applicant, they could not go on tour. The disciplinary authority has legal right to dissent with the report of the enquiry officer. Due opportunity of hearing has been given to the applicant. Charge Nos. 1 & 3 are proved and established even by the enquiry officer himself. The Tribunal cannot reappraise the evidence. We have perused the impugned orders passed by the disciplinary authority dated 15.4.2002 and by the appellate authority dated 16.1.04. These orders are speaking and reasoned.



6. Considering all facts and circumstances of the case, we are of the considered opinion that the OA has no merit. Accordingly the OA is dismissed. No costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

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पृष्ठंकन सं ओ/न्या.....जवलपुर, दि.....

प तिलिपि अने दिस :-

- (1) सचिव, उच्च न्यायालय, जवलपुर
- (2) अध्यक्ष श्री/श्रीमती/श्री.....के काउंसल
- (3) प्रथमी श्री/श्रीमती/श्री.....के काउंसल
- (4) बंधनान, कोषाध्यक्ष, जवालपुर न्यायपीठ

सूचना एवं आवश्यक कार्यवाही हेतु

उप रजिस्ट्रार

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A.J. Rasb 420 PM 2030
J.P. 8029 PM 030
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