

CENTRAL ADMINISTRATIVE TRIBUNAL,
JABALPUR BENCH

Original Application No. 585 of 2004

Bilaspur, this the 10th day of May, 2005

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

Bhanwarlal
S/o Moorat Singh
Stoop Road
Sanchi
Raisen (MP)

Applicant.

(By advocate Shri Sameer Behor on behalf of
Shri S.K.Agrawal)

Versus

1. Union of India through
The Secretary
Department of Archaeological Survey
Govt. of India,
Janpath
New Delhi.
2. Director (Administration)
Archaeological Survey of India
New Delhi.
3. Superintendent
Archaeological Survey of India
Bhopal Circle
Bhopal.

Respondents.

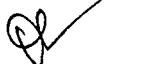
(By advocate Shri K.N.Pethia)

ORDER

By Madan Mohan, Judicial Member

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

- (i) Set aside the impugned order of termination from services dated 2.1.2003 (Annexure A10) and the order dated 3.6.04 (Annexure A13).



- (ii) Direct the respondents to reinstate the applicant in service with all consequential benefits such as arrears of salary, seniority etc.

2. The brief facts of the case are that the applicant who was working as Monument Attendant in the Department of Archaeological Survey of India was placed under suspension vide order dated 8.8.02 under Rule 10 of the CCS (CCA) Rules, 1965.(Annexure A2). The aforesaid order was issued in contemplation of DE against the applicant. Vide memo dated 18.9.02, a charge sheet was issued to the applicant, leveling 3 charges against the applicant. The charges related to an incident which took place in the night intervening 6th and 7th of August 2002. A registered article was stolen on the said date on account of alleged negligence of the applicant. Listed documents were supplied to the applicant. However, the documents mentioned in the list were not supplied to the applicant. The charges levelled against the applicant were ex-facie baseless. The applicant was on duty from 6.8.2002 from 4 pm till 12 mid night. On closing of his duty, he handed over charge to one Ram Singh Yadav who was a daily wage employee. The applicant filed reply to the charge sheet denying the charges levelled against him. On one hand, a regular DE was instituted against the applicant and on the other hand, the order of suspension was revoked vide order dated 21.11.02 (Annexure A7). None of the witnesses stated that the applicant was negligent in any manner in discharging his duties. Thereafter vide order dated 2.1.03 a penalty of termination of services was imposed on the applicant. Feeling aggrieved, the applicant submitted an application for review of the said order. The applicant also submitted an appeal to the Director General of Archaeology, New Delhi. The appellate authority rejected the said appeal vide order dated 3.6.04 in a mechanical manner without application of mind. Hence this OA is filed.

3. Heard the learned counsel for both parties. It is argued on behalf of the applicant that the copies of the listed documents were not supplied to the applicant and during the departmental enquiry



proceedings, the suspension order passed earlier against the applicant was revoked vide order dated 21.11.02. The learned counsel argued that in the intervening night of 6th & 7th August, 2002, the applicant had handed over charge to one Ram Singh Yadav and the charge was taken over by him after due verification in the register and the said Ram Singh Yadav had clearly mentioned that he was taking charge from the applicant in proper condition. The enquiry officer did not conduct the enquiry according to rules. Due opportunity of hearing was not given to the applicant and the charges against the applicant are not proved and established. The age of the applicant is 33 only and as such termination of his services at this young age is too harsh a punishment. The appellate authority has also not considered this fact and his appeal was also rejected in a mechanical manner without application of mind. Hence this OA deserves to be allowed.

4. In reply, it is argued that the charges levelled against the applicant are proved and established by the enquiry officer. The applicant was found negligent and careless in duties, as a result of which a theft of documented sculpture (head of female) took place and the matter was reported to the superintending Archaeologist as also the local police authorities. The theft caused the loss of stone sculpture under key and lock at the site. It is a case of direct involvement of the department employee. The departmental inspection was done by the Assistant Superintending Archaeologist who submitted his report wherein he arrived at the conclusion that the applicant and other employees were negligent and responsible for the theft. On the basis of the said report, it was decided to initiate departmental enquiry against the applicant and other employees of the department, namely, R.S.Shrivastava, Senior Conservation Assistant and H.P.Sharma, Caretaker. The departmental enquiry was conducted against all the three employees and the inquiry officer submitted his inquiry report on 29.12.2002 (Annexure R3). As the charges against the applicant were duly proved, the punishment of termination of

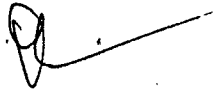


services of the applicant was passed by the disciplinary authority vide order dated 2.1.03 and his appeal was also dismissed after considering the contentions of the applicant vide order dated 3.6.04 (Annexure A13) by the Director General of ASI. Due opportunity of hearing was given to the applicant and the departmental enquiry proceedings were conducted in accordance with rules and law. No irregularity was committed by the respondents in any way. The applicant does not deserve any leniency in the punishment also. He might be of young age but the charges levelled against the applicant are so serious that the punishment awarded by the respondents cannot be said to be harsh. The OA deserves to be dismissed.

5. After hearing the learned counsel for the parties and perusing the records, we find that the applicant had filed reply to the charge sheet and denied his involvement in the incident of theft. It is an admitted fact that the applicant was on duty up to mid night of 6th August 2002 and he had handed over charge to another person and the alleged incident of theft is said to have been committed in the intervening night of 6th & 7th August 2002. The enquiry proceedings were duly conducted by the respondents and the charges levelled against the applicant were proved and established and it was proved that the applicant was negligent in discharging his official duties of important nature to keep safe the documented sculpture of the Archaeological Department. The applicant could not show any irregularity in the departmental proceedings. We have perused the order passed by the disciplinary authority dated 2.1.03 (Annexure A10) and the order dated 3.6.04 (Annexure A13). Both these orders are reasoned, detailed and speaking orders. In the appellate order, it is clearly mentioned that this alleged incident of theft was committed when the applicant had only served the respondent institution for about 2 ½ years. Though the applicant is a young person of 33 years as is mentioned in the OA, considering all the facts and circumstances of the case and the gravity of the charges levelled against the

applicant, the punishment of termination of services does not shock our conscience at all. The applicant does not deserve any leniency in the punishment in such type of charges.

6. After considering all the facts and circumstances, 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.

कृष्णांकन से ओ/व्या.....जबलपुर, दि.....

पत्तिलिपि अर्बोधित:-

- (1) सचिव, उच्च न्यायालय एवं हस्तक्षेप, जबलपुर
- (2) आदेशक श्री/श्री/श्री/श्री.....के काउंसल
- (3) प्रत्यक्षी श्री/श्री/श्री/श्री.....के काउंसल
- (4) वॉयसल, जे.ए.ए. जबलपुर न्यायाधीश
सूचना एवं आवश्यक कार्यवाही हेतु

Sameer Bhatia
D.V.D.H.
K.N. Reddy
D.B.R.

उप रजिस्ट्रार

20/5/2006

Issued
on 20.5.06
BS