

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

OA No.467/03

Jabalpur, this the 26th day of October 2004.

CORAM

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

R.G.Gautam
S/o Late K.P.Gautam
R/o H.No.3429, Tulsi Nagar
Ranjhi, Jabalpur.

Applicant

(By advocate Shri Rakesh Pandey)

Versus

1. Union of India through
The Secretary
Ministry of Defence (Production)
South Block, New Delhi.
2. Director General (EME)
Army Headquarters, DHQ
P.O., New Delhi.
3. Commander
Base Workshop Group EME
Meerut. Cantt.
4. Resident Inspector
Detachment Base Workshop
Group No.6, C/o 506, EME
Base Workshop, Khamaria.

Respondents

(By advocate Shri S.A.Dharmadhikari)

O R D E R

By Madan Mohan, Judicial Member

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


- (i) To set aside the order dated 3.8.02 passed by respondent No.3.
- (ii) To set aside the punishment passed on 3.8.02 with all consequential benefits.

2. The brief facts of the OA are that the applicant was working as Armament Mech. in the office of Respondent No.3. He was served with a memo of charges on 21.12.1998, containing 5 charges. The applicant denied the charges. Therefore, an enquiry was ordered. The enquiry officer submitted his report in which the charges were said to be



proved against the applicant. On the basis of this report, respondent No.3 passed an order (Annexure A1) which is under challenge whereby the applicant was compulsorily retired from service. The applicant filed an appeal which was rejected by order dated 2.9.03 without application of mind. The prosecution took 14 months to produce prosecution witnesses. Principles of natural justice which is the basic requirement of departmental enquiry were not followed and sub rules 16, 17 & 18 of Rule 14 of CCS Rules were totally ignored by the enquiry officer. The applicant was not provided opportunity of hearing either orally or in writing. Hence this OA is filed.


3. Heard learned counsel for both parties. It is argued on behalf of the applicant that the applicant was not given due opportunity of hearing and he was not given opportunity to produce his defence which was necessary according to rules. The learned counsel further argued that in the punishment order dated 3rd Aug. 02 in para 11 (c) it is clearly mentioned that "the inquiry officer has derived at his own in a number of delinquent official's action (para 14 of enquiry officer's report) at various places from Video recordings displayed during the court of inquiry on 23 Nov. 2001. But no contents/speculations have been recorded in the court of inquiry proceedings held on 28 Nov 2001 from Video display. The presenting officer in his brief vide para 3 (b) has also contended that what exactly the delinquent official was shouting can't be ascertained from the Video viewing. Despite without hearing his voice anywhere, conclusions of inquiry officer on Video viewing appears to be prejudiced being based on conjectural insinuation and personal assumption. Due to non-recording the observations in court of inquiry proceedings



rendered him handicapped for defence." Hence the charges against the applicant were not proved. He further argued that the appellate authority has not applied his mind and not considered the contentions raised by the applicant in his memo of appeal. Hence the action of the respondents is against rules and that legal procedure has not been followed.


4. In reply, learned counsel for respondents argued that the charges levelled against the applicant are fully proved and established. If there is any ambiguity regarding the exact words in video recording, it does not exonerate the applicant from the charges as the charges of shouting and raising slogans and gherao by the applicant are proved and these amounted to gross misconduct by the employee and he also incited the workers to come out in groups. This act of the applicant was sufficient ground for awarding a deterrent punishment. The counsel further argued that the applicant was given due opportunity of hearing as the report of the enquiry officer was sent to him and the defence was considered by the enquiry officer. Hence the contention of the applicant that he was not given an opportunity to state his defence is false and baseless. The departmental enquiry proceedings conducted by the respondents and the impugned orders passed by the disciplinary and appellate authority are perfectly in order. Hence the respondents have not committed any irregularity or illegality in their action.

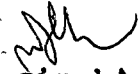
5. After hearing the learned counsel for the parties and careful perusal of the records, we find that five charges were levelled against the applicant. The applicant displayed riotous and disorderly behaviour and incited the workers to shout derogatory and offensive slogans against the management, which amounted to gross misconduct wholly unbecoming of a government servant. These charges are fully proved and



established during the enquiry proceedings. If the exact words are not clear from the video recordings, as argued on behalf of the applicant, it hardly matters, as the charges against the applicant are proved by other evidence also. Hence this is not a case of no evidence and the Tribunal cannot re-appraise the evidence. The applicant was given due opportunity of hearing and a copy of the enquiry report was forwarded to the delinquent officer for making representation within 15 days as mentioned in the impugned order dated 3.8.02 (Annexure A1) and defence assistance submitted by the applicant was considered by the enquiry officer. The applicant had filed an appeal against the order passed by the disciplinary authority and his appeal was considered and rejected. We have perused both the impugned orders dated 3.8.02 passed by the disciplinary authority (Annexure A1) and the order dated 24th Sept.03 passed by the appellate authority (Annexure R1). Both these orders are speaking and reasoned orders. The charges levelled against the applicant are very serious in nature and these charges were proved. Such type of acts like demonstration/slogans/gherao, inciting or abetting other employees adversely affected the smooth functioning of respondents' office.

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


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman