

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 471 of 2003

Jabalpur, this the 29th day of July, 2004

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

Krishan Kumar Sahu S/o Shri N.P.Sahu
Aged about 51 years.
R/o 129, Sanjeevni Nagar Garha Road,
Jabalpur(M.P.)

APPLICANT

(By Advocate - Shri Saleem Rehman)

VERSUS

1. Union of India through
Secretary Ministry of Defence
Department of Defence Production
New Delhi.
2. Director General of Factories
10-A, Auckland Road,
Kokatta.
3. General Manager,
Ordinance Factory Khamaria
Jabalpur(M.P.)

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 main reliefs :-

"(A) That the penalty order dated 15.5.2002 passed by the disciplinary authority may please be quashed, alongwith the passed by the appellate authority dated 31.1.2003 as both are non speaking and passed by non application of mind.

(B) That the applicant may also be permitted to avail his promotion with retrospective effect from date promotion was due, and the date when juniors were promoted, also his name be placed in the seniority list above his juniors who were promoted due to penalty imposed on the applicant.

(C) All consequential benefits, seniority, promotion and financial benefits may also please be given".

2. The brief facts of the case are that the was working as Chargeman Grade-I under the respondent No. 3. Whiel working as such he was served with a memorandum of charge sheet under Rule 16 of CCS (CCA) Rules, 1965. The applicant submitted



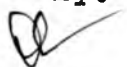
his representation on 12.2.2002, stating that the relevant documents on the basis of which charges were framed be supplied to him and also the list of witnesses and copies of their statement used for the purpose of framing the charges be also supplied so that an effective written statement of defence could be prepared and submitted. The disciplinary authority replied to the applicant that the charges framed in the memorandum of charge sheet are specific and the imputation of misconduct is also clear and therefore the applicant is directed to submit his representation within 7 days from the receipt of the letter dated 23.4.2002, failing which it will be assumed that the applicant has nothing to say in this regard and further action will be taken against him as per the rules. The applicant submitted his reply and the respondents without rejecting the same imposed the penalty of reduction of pay by one stage in the Grade of Chargeman Grade-II, for the period of one year without cumulative effect. It was also provided that the applicant will also not earn increment during the penalty period. The applicant preferred an appeal against the order of the disciplinary authority, which was also rejected by the appellate authority vide order dated 31.1.2003. Aggrieved by this the applicant has filed the present OA claiming the aforesaid reliefs.

3. It is argued on behalf of the applicant that this is a case of major penalty. He further stated that inspite of repeated requests and representation the relevant documents were not given to the applicant and even he was not permitted to inspect the same. No due opportunity was given and no opportunity of hearing was also given to the applicant. He also stated that the charges levelled against the




applicant are not proved and established as the period of absence has already been covered by grant of half day casual leave and his leave application has also been sanctioned and which has already been acknowledged by the establishment section of OFK. Hence, this is a case of no evidence against the applicant. He also argued that the applicant asked for the enquiry but the respondents have not conducted the enquiry proceedings. The impugned orders are non-speaking and no reasons are assigned in these orders. Hence, the departmental enquiry conducted by the respondents and the orders passed therein are in violation of the rules and law.

4. The learned counsel for the respondents argued that the argument of the applicant that this is a case of major penalty is not correct as it is a case of minor penalty because the penalty imposed on the applicant is reduction of pay by one stage in the Grade of Chageman Grade-II, for a period of one year without cumulative effect. In case of without cumulative effect the penalty becomes minor. He further argued that in the present case the charge sheet was issued under Rule 16 of CCS(CCA) Rules, 1965 and it is not mandatory on the part of the respondents to provide the applicant an opportunity to inspect the relevant documents provided since no detailed enquiry is considered necessary by the respondents, because the charges inflicted on the applicant is specific and imputation of misconduct is also very clear. The ^{applicant} himself admitted that he has committed the misconduct by missing from place of duty on 22.11.2001 and also he has admitted that one leave application for 22.11.01 was produced before AGM/F & Proj. on 23.11.2001 i.e. the next date of incident. It shows that the applicant willfully committed the offence and also managed to get his punch card punched both In and Out time to make wrongful pecuniary gain fraudulently. Therefore the instant application is mislead-




ing, frivolous and untenable and deserves to be dismissed. Our attention is drawn towards Annexure A-7 in which the 3rd paper dated 5.12.2001, does not justify the version of the applicant. Due opportunity of hearing was given to the applicant. The charges have been proved against the applicant and in the case of minor penalty detailed departmental enquiry is not needed and even in certain cases the departmental enquiry is exempted by the Hon'ble Supreme Court. The orders passed by the respondents are speaking and having reasons.


5. After hearing the learned counsel for the parties and on careful perusal of the records, we find that on the charges levelled against the applicant it was not necessary to furnish the copies of the alleged documents relied upon by the respondents, but mere inspection of the same was sufficient, which the respondents permitted. Opportunity of hearing was given to the applicant as he has filed the representation against the charge sheet as well as filed the appeal before the appellate authority. So far as the half day leave for 22.11.2001 is concerned, the sanction on 23.11.2001 on the application moved by the applicant seems to be not believable according to the arguments advanced by the respondents in detail. This is not a case of no evidence. We have perused the impugned orders and we find that these are speaking and detailed orders. So far as the enquiry is concerned the argument advanced on behalf of the respondents that this is a case of minor penalty and the Hon'ble Supreme Court has held that in certain cases of major penalty the departmental enquiry is exempted. Therefore, we come to the conclusion that the respondents have not committed any irregularity or illegality in passing the impugned orders. It is settled legal proposition that the Courts/Tribunals



cannot reappraise the evidence and also cannot go into the quantum of punishment unless it shocks the conscience of the Courts/Tribunals.

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


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman

पुस्तक सं. सो/न्या.....जबलपुर, दि.....
विलिपि अन्वेषित:-

- (1) सचिव, उच्च न्यायालय हाट प्रयोगशाला, जबलपुर के काउंसिल S. Rehman
- (2) आवेदक श्री/श्रीमती/शु. के काउंसिल SP Singh
- (3) फायरिंग श्री/श्रीमती/शु. के काउंसिल
- (4) कोषाध्यक्ष, कोषा. जबलपुर न्यायपीठ
शुभ्रा एवं आवश्यक कार्यवाही हेतु
न्याय सचिवद्वारा
10-8-04

"SA"

Issued
On 10-8-04
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