

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

OA No.492/03
&
OA No.786/03

Jabalpur, this the 18th day of August, 2004.

C O R A M

Hon'ble Mr.M.P.Singh, Vice Chairman
Hon'ble Mr.A.K.Bhatnagar, Judicial Member

OA No.492/03

V.P.Nathani
S/o K.C.Nathani
D/M II (under suspension)
O/o Controller Quality Assurance
(Weapon) GCF Premises Jabalpur.
R/o Qr.No.133/4 Vidya Nagar,
GCF Estate, Jabalpur

Applicant

(By advocate Shri S.K.Mishra)

Versus

1. Union of India through
Secretary
Ministry of Defence
New Delhi.
2. Director General, Quality Assurance
Department of Defence Production
and Supplies, Ministry of Defence
DHO Post Office, New Delhi.
3. Director of Quality Assurance (Armts)
Department of Defence Production and
Supplies, Ministry of Defence,
DHO, New Delhi.

4. Shri R.E.Chauhan
Controller of Quality Assurance(W)
GCF Factory, Jabalpur.

Respondents

(By advocate: Shri S.A.Dharmadhikari)

OA No.786/03

Saryug Prasad
Chargeman II (under suspension)
Q.A.D.I Division
O/o Controller Quality Assurance
(Weapon) GCF Premises Jabalpur.
R/o Qr. No.133/4, Vidya Nagar,
GCF Estate, Jabalpur.

Applicant

(By advocate Shri S.K.Mishra)

Versus

1. Union of India through
Secretary, Ministry of Defence
New Delhi.

2. Director General, Quality Assurance Department of Defence Production and Supplies, Ministry of Defence DHO Post Office, New Delhi.
3. Director of Quality Assurance (Armts) Department of Defence Production and Supplies, Ministry of Defence DHQ, New Delhi.
4. Brig.R.E.Chawan
Controller of Quality Assurance (W)
C/o GCF Factory, Jabalpur. Respondents.

(By advocate Shri S.A.Dharmadhikari)

O R D E R (oral)

By M.P.Singh, Vice Chairman

In OA No.492/03, the applicant has sought the following reliefs:

- (i) Quash the suspension orders (Annexure A3) issued by Shri R.E.Chouhan, Controller QA Jabalpur as disciplinary authority being malafide and violative of principles of natural justice.
- (ii) Direct the respondents to reinstate the applicant treating the entire period of suspension as on duty and pay full pay and allowances for the suspension period.

In OA No.786/03, the applicant has sought the following reliefs:

- (i) To hold that the suspension order (A-3) and charge sheet (A-4) issued by respondent No.4 are malafide and violative of principles of natural justice. Hence A-3 and A-4 be quashed.
- (ii) To hold that the order dated 29.5.03 (A-11) passed by respondent No.2 is unjust, unfair and improper. Hence A-11 be quashed.
- (iii) To direct the respondents to reinstate the applicant treating the entire period of suspension as on duty and pay full pay and allowances for the suspension period.

2. Since the issue involved in both cases is same and the facts are similar, we dispose of both OAs by passing this common order.

3. Heard learned counsel for both parties.



4. Learned counsel of the applicants stated that the applicants were placed under suspension by orders dated 10.8.2002. Subsequently, charge sheets were issued to the applicants on 7.9.2002. Even an inquiry officer was appointed but the enquiry officer has not started conducting the enquiry even after a lapse of 2 years. The applicants were placed under suspension 2 years back but till now the respondents have neither reviewed the subsistence allowance nor have they reviewed the continuance of the ~~suspension~~ suspension of the applicants, as required under rules. The counsel has further stated that the applicants have been put under suspension for such a long period and as per the instructions recently issued by the Department of Personnel & Training dated 23.12.2003, a review should have been made by the respondents by constituting a review committee for the purpose. Till now the respondents have not taken any action in terms of the instructions issued by the Department of Personnel & Training vide notification No. 11012/4/2003-Estt.(A) dated 23.12.2003. He has further submitted that in the light of the instructions of the DoPT dated 23.12.03, the suspension orders are required to be set aside and the applicants are to be reinstated in service.

5. On the other hand, learned counsel for the respondents stated that a review of subsistence allowance has been done by the respondents as required under the rules and the subsistence allowance is enhanced from 50% to 75% and payment has also been made accordingly. In support of his submission, he has produced a copy of the pay bill in respect of the suspended employees.

[Signature]

He has, however, not been able to produce the copy of the order whereby the suspension of the applicants has been reviewed by the respondents by constituting a committee as required under the DoPT notification dated 23.12.03. He has also stated that in a similar case in OA No.217/03 decided on 11th September, 2003 in which applicants were involved in the same incident, the Tribunal had stayed the departmental proceedings. Para 7 of the order dated 11th September 2003 in OA No.217/03 is as follows:

"7. In these circumstances, we allow this OA in part. We stay the departmental proceedings for a period of one year from the date of this order."

By the order of the Tribunal dated 11th September, 03 the enquiry has been stayed for a period of one year and that period is still not over in view of the stay granted by the Tribunal and no further progress has been made in respect of the enquiry even after appointing an inquiry officer. The fact that applicant in OA 217/03 was involved in the same incident has not been denied by the learned counsel of the applicants.

6. We have given careful consideration to the rival contentions of both parties. Keeping in view the facts and circumstances of the case and also the judgement of the Tribunal dated 11th September '03, we are of the considered view that ends of justice will be met if we direct the respondents to constitute a review committee and review the suspension of the applicants in the light of the instructions contained



in letter dated 23.12.03 issued by the DoPT, as expeditiously as possible in any case within a period of three months, if not already conducted, from the date of receipt of the copy of this order.

Both the OAs are disposed of as above.


(A.K.Bhattacharya)
Judicial Member


(M.P.Singh)
Vice Chairman

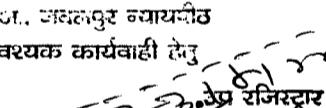
aa.

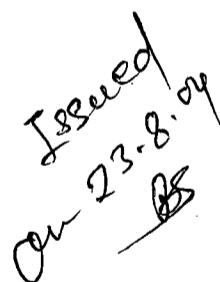
पूलांकन सं. ओ/न्या.....जबलपुर, दि.....
प्रतिलिपि अब्दे दिता:-

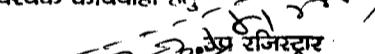
- (1) सचिव, उच्च न्यायालय वार एसोसिएशन, जबलपुर
- (2) आवेदनक श्री/प्रीमर्ति/द्वाराके काउंसल
- (3) प्रत्यक्षी श्री/कैलाली/द्वाराके काउंसल
- (4) गोपालन, दोस्ता, जबलपुर न्यायालय
सूचना एवं आवश्यक कार्यवाही देते

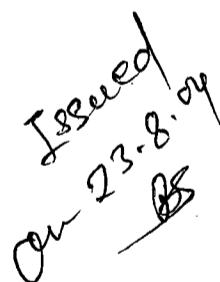
S.L. Mishra
M. Mohammad Ali Khan

Advocate


S.L. Mishra


M. Mohammad Ali Khan
Advocate


Advocate


S.L. Mishra
Advocate