

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR,
JABALPUR

Original Application No. 507 of 2003

Jabalpur, this the 18th day of February, 2005

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

Nand Kumar Chobe, S/o. Shri Ram Dev
Chobe, aged 43 years, Security Guard,
Computer No. 1336, Centre for Advance
Technology, Rajendra Nagar, Indore,
r/o. A 2/6 CAT Colony, Sukhnivas, Indore. Applicant

(By Advocate – Shri D.M. Kulkarni)

V e r s u s

1. Union of India, through Secretary,
Department of Atomic Energy, New Delhi.
2. Centre for Advanced Technology, represented
by its Director, Sukhnivas, PO CAT, Indore.
3. Chief Administrative Officer, Centre for
Advanced Technology, Sukhnivas, PO CAT,
Indore.
4. Administrative Officer, Centre for Advanced
Technology, Sukhnivas, PO CAT, Indore. Respondents

(By Advocate – Shri U. Gajankush)

O R D E R

By Madan Mohan, Judicial Member –

By filing this Original Application the applicant has claimed the following main relief :

“8.1 it be held that the impugned orders Annexure A-1 & A-2 including the charge sheet and the enquiry report be held illegal and be set aside.”

2. The brief facts of the case are that the applicant was appointed on the post of Security Guard under respondent No. 2 from 21.3.1999. The respondent No. 4 vide his order dated 18.2.2002 issued a charge sheet under the provisions of Rule 14 of CCS (CCA) Rules, 1965. The applicant submitted his written statement of defence to the said charge sheet. The who allegation against the applicant is false. Shri B.P. Joshi, Assistant Personal Officer-2 was appointed as enquiry officer and Shri U.S. Rao, Assistant Personal Officer-2 as presenting officer. During the enquiry the complainant Shri Hada was not examined by the enquiry officer. The enquiry officer submitted his report and thereafter the respondent No. 4 imposed the punishment of stoppage of one increment for one year without cumulative effect, vide order Annexure A-2. The applicant aggrieved by this order preferred an appeal which was dismissed vide order Annexure A-1. Hence, this Original Application is filed.

3. Heard the learned counsel for the parties and carefully perused the records and pleadings.

4. It is argued on behalf of the applicant that this is a case of no evidence. The enquiry officer has not conducted the enquiry according to the rules. He has drawn our attention towards the statement of witnesses recorded during the enquiry proceedings, wherein the enquiry officer had himself cross-examined the witnesses. He simply permitted the applicant to cross-examine two witnesses who were of formal in nature while the duty of the enquiry officer is like a judge as he cannot cross-examine the witnesses himself according to the rules. Hence, the whole enquiry proceedings are against law and as the impugned orders are based on the enquiry report submitted by the enquiry officer, the same are liable to be quashed and set aside.

5. In reply the learned counsel for the respondents argued that the enquiry officer can also put questions and cross-examine the witnesses, so as to come to the correct finding. Due opportunity of hearing was given to

the applicant and the impugned orders are passed strictly in accordance with the rules and law. The punishment awarded to the applicant is only a minor penalty. No illegality or irregularity has been committed by the respondents while passing the impugned orders. Hence, this OA deserves to be dismissed as having no merits.

6. After hearing the learned counsel for the parties and on careful perusal of the pleadings and records, we find that the argument advanced on behalf of the applicant that no cross-examination can be done by the enquiry officer ~~of the witnesses~~, seems to be correct. We have perused the statement recorded during the enquiry proceedings and find that the enquiry officer has himself cross-examined the material witnesses. He has simply permitted the applicant to cross-examine the witnesses who were of formal in nature. According to the rules, the enquiry officer may ask certain questions during the cross-examination ~~of the witnesses~~ which are necessary for the interest of justice and for coming to the correct finding. But cross-examination, as a whole by the enquiry officer is not at all permissible under the law. It is immaterial, whether the penalty awarded to the applicant is minor or major, in the case when the enquiry proceedings conducted by the enquiry officer is not in accordance with the rules and law.

7. Considering all the facts and circumstances of the case, we are of the considered opinion that the impugned orders dated 7/8.1.2003 (Annexure A-2) passed by the disciplinary authority and the order of the appellate authority dated 21st April, 2003 (Annexure A-1) are liable to be quashed and set aside. We do so accordingly. The case is remanded back to the disciplinary authority to proceed with further from the initial stage of enquiry. No costs.

(Madan Mohan)
Judicial Member

“SA”

प्राप्तिक्रम सं. ओ/न्या..... जबलपुर, दि.....
प्रतिलिपि अर्चे दिन:-
(1) सचिव, उच्च न्यायालय वा ए प्रोसिएशन, जबलपुर
(2) अध्यक्ष श्री/श्रीमती/स्त्री..... के कार्यालय D.M./K.C./.....
(3) प्राप्तिक्रम श्री/श्रीमती/स्त्री..... के कार्यालय D.M./K.C./.....
(4) न्यायालय, केप्रा, जबलपुर ज.प्रान्ति

(M.P. Singh)
Vice Chairman

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