

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

OA No.868/2003

Bilaspur, this the 9th day of Sept., 2004

C O R A M

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

M.Y.Khan
S/o Late Aminuddin Khan
R/o Ahmed Nagar
Katra, Adhartal
Jabalpur (MP)

...Applicant

(By advocate : None is present)

Versus

1. Union of India through
Director, Ordnance Factory Board
10-A, Auckland Road
Kolkata (WB)
2. Additional Director General
of Ordnance Factory Board
10-A Shaheed K.Bose Road
Kolkata.
3. General Manager
Ordnance Factory
Khamaria
Jabalpur.

...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
reliefs:


- (i) Quash the impugned orders dated 31.1.2002 and dt.
10.6.03 (Annexures A4&A6).
- (ii) Direct the respondents to give all consequential
service benefits along with arrears of payment
which is being deducted from the applicant's salary.

2. The brief facts of the case are that the applicant
was appointed on 1.1.64 as a Trade Apprentice, Second Batch
in Ordnance Factory, Jabalpur. Thereafter he was posted
as Mill Wright and transferred to Vehicle Factory, Jabalpur.
One A.K.Ghosh belonging to JWM/A-6 Section lodged a
complaint after 10 days of incident that applicant led a
mob to A-6 Section and misbehaved with him and hence
committed misconduct in violation of CCS (Conduct) Rules,
1964. A charge sheet was given to the applicant vide memo
dated 26.11.99. The enquiry officer found that the charges

against the applicant were proved. As the charges were not proved by the prosecution witness themselves, the applicant ought to have been acquitted. Yet the disciplinary authority vide its order dated 10.9.2001 issued a show cause notice Annexure A2 to which applicant submitted his reply on 20.10.2001. Respondent No.2 without going through the total material on record passed the impugned order dated 31.1.2002 by which applicant was punished by reducing the pay scale to minimum for a period of two years without cumulative effect. He preferred an appeal which was not considered in proper perspective and without application of mind it was rejected by order dated 10.6.2003. Hence this OA is filed.

3. None is present for the applicant. Hence the provision of Rule 15 of CAT (Procedure) Rules, 1987 is invoked to dispose of this OA.

4. Heard learned counsel for the respondents. Learned counsel for respondents argued that the disciplinary authority has given his dissenting note against the report of the enquiry officer on 10.9.01 (Annexure A2) and in the dissenting note he has considered every facts and circumstances of the case and has also mentioned about the version of the applicant threatening his senior A.K.Ghosh. Due opportunity of hearing was given to the applicant and the whole departmental proceedings conducted against the applicant were in accordance with law and rules and the orders passed by the authorities concerned are perfectly speaking and having reasons. This is not a case of no evidence. The counsel further argued that the applicant was a habitual offender and he was punished on several occasions in similar misconducts on his part. His record of previous penalties is mentioned in para 16 of the reply, which shows that the applicant was punished




for 14 times. He deserves no leniency. Even then the appellate authority had taken a lenient view and in the appellate order A-6 dated 10.6.03 it is mentioned that "since the applicant is likely to retire in the near future i.e. on 30.6.05, after taking a lenient view the penalty is hereby moderated to that of reduction of pay by 5 stages for a period of two years without cumulative effect". Hence no irregularity or illegality has been committed by the respondents.

5. After hearing learned counsel for respondents and perusing the records carefully, we find that the disciplinary authority has given his dissenting note dated 10.9.01 (A2). We have perused the dissenting note carefully. It shows valid reasons for dissenting from the report of enquiry officer. The applicant was given due opportunity of hearing. He filed representations against the charge-sheet and also filed appeal against the order passed by the disciplinary authority and the disciplinary authority has taken a lenient view, as argued on behalf of the respondents, vide order dated 10.6.03 (Annexure A6). The applicant was going to be retired after one year and we have perused para 16 of the reply in which 14 incidents are mentioned for which previous penalties were awarded ~~to~~ ^{against} the applicant. The nature of the charges levelled against the applicant is serious. Even then the appellate authority has taken a lenient view and awarded the punishment of a minor penalty. Both the impugned orders are speaking and reasoned.

6. Considering the facts and circumstances of the case, the OA deserves to be dismissed and it is hereby dismissed.
No costs


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman