

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

OA No.885/03

Jabalpur, this the 30th day of September, 2004

CORAM

Hon'ble Mr. Madan Mohan, Judicial Member

Vijayanand Pachori
S/o Shri B.S.Pachori
Superintendent of Police (Railway)
Indore.
R/o S.P.Railway Bungalow
Indore.

Applicant

(By advocate Shri S.Paul)

Versus

1. Union of India through
Secretary, Ministry of Home
New Delhi.
2. State of Madhya Pradesh
through Principal Secretary
Govt. of M.P.
Home (Police) Department
Vallabh Bhawan, Bhopal.
3. Director General of Police
Police Headquarters
Madhya Pradesh, Bhopal.
4. Inspector General of Railway
Police, Madhya Pradesh Government
Railway Police, Headquarter
Bhopal.

Respondents

(By advocate Shri Om Namdeo)

O R D E R

By Madan Mohan, Judicial Member

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

- (i) Quash the orders dated 31.10.2001 (Annexure A8) and dated 24.11.03 (Annexure A11).
- (ii) Restraine the respondents from making any illegal recovery from the salary of the applicant pursuant to the orders impugned.

2. The brief facts of the case are that the applicant was posted as Commandant in 17th Battalion



Special Armed Forces, Bhind. While the applicant was serving as such, a letter was issued by Dy. Inspector General of Police, S.A.F. intimating that the purchases were to be made through one authorized firm after getting the approval from the committee constituted for the said purposes. An order was placed by the applicant in his capacity as Commandant 17th S.A.F.Btn., Bhind. Instead of sending the materials as per the terms agreed, the firm sent all the materials by a builty through the bank. A letter was received by the applicant in this respect. Immediately an objection was raised by the applicant that an amount of Rs.35,000/- was paid as advance while placing the order on 14.1.2000 and the rest of the amount was to be paid only after sale of the materials. It was categorically stated by the applicant that by sending the material by a post paid builty was not correct. The applicant was transferred from Bhind to Mahasamund and he was relieved on 6.3.2000. The company sent the reply on 18.3.2000 which was received by the successor of the applicant. However, no action was taken on the letter sent by the company nor the builty was got encashed. Ultimately the builty was sent back on 19.5.2000 and the company intimated that the advance paid by the Battalion is forfeited as a loss caused to the company. A DO letter was sent to the applicant to get the matter settled. However, no action was taken simply because the then Commandant was not caring to act properly. without issuing any notice to the applicant, the impugned order dated 31.10.2001 was issued by respondent No.3 imposing a penalty of recovery of Rs.35,000/- (A-8).



the penalty of recovery from the salary of the applicant.

3. In reply, the learned counsel for the respondents argued that action against the applicant was taken on the basis of the audit report. The applicant placed order for supply of articles without following the directions given to him. He did not discuss with the welfare Committee of the Btn. and he was not authorised to give more than 10% payment as advance. He could have given Rs.15000 as advance money while the applicant gave Rs.35000/- as advance, which is beyond his powers. Ultimately this amount was forfeited by the said company. The successor of the applicant in his office is not at all responsible for the loss. The counsel further argued that in the audit report it is mentioned that the loss was caused to the Dry Canteen and the amount was given by the applicant from the Welfare Fund which was not under Government Fund. Hence this Tribunal has no jurisdiction in this matter as it relates to the fund of individual employees concerned regarding the Dry Canteen. Hence the amount is being recovered from the applicant and not from his salary as mentioned in Annexure A8. Hence the action taken by the respondents is perfectly legal and justified.

4. After hearing the learned counsel for both parties and careful perusal of the records, I find that the applicant is admittedly an IPS officer and is governed by the All India Service (Discipline & Appeal) Rules, 1969 and the amount of Rs.35000 is not to be recovered from the applicant. It is to be recovered from the salary of the applicant as is clearly mentioned in the letter dated



24.11.03 (Annexure A11) written by the IG of Police (Railway). Hence the recovery of Rs.35000 comes within the purview of Rule 6 (Sub Rule 3) of the All India Service (Discipline & Appeal) Rules, 1969. Hence it comes within the purview of minor penalty. Rule 7 sub Rule 7 provides that Central Government alone shall be competent to institute proceedings against a person concerned and Rule 10 prescribes the procedure for imposing minor penalties.

5. After considering all the facts and circumstances, I am of the opinion that before passing the impugned orders, the respondents have not followed the mandatory procedure prescribed under the All India Service (Discipline & Appeal) Rules 1969. Hence the impugned orders are liable to be quashed and set aside.

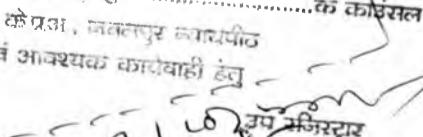
6. In view of the foregoing discussion, the impugned orders dated 31.10.01 (Annexure A8) and dated 24.11.03 (Annexure A11) are quashed and set aside and I direct that respondents may proceed against the applicant strictly in accordance with rules.

7. The OA is disposed of as above.


(Madan Mohan)
Judicial Member

aa. मृत्युकल से ओ/लगा..... जबलपुर, दि.....
परिसिलियि अब्बे दिल्लि:-
(1) सचिव, उच्च व्यापारालय कार्यालय, एन्डरेसिलियन, जबलपुर
(2) आवेदक श्री/श्रीमती/कु..... के काउंसल
(3) प्रत्यार्थी श्री/श्रीमती/कु..... के काउंसल
(4) वायपाल, कोप्रजा, जबलपुर व्यापारालय
सूचना एवं आवश्यक कागदोंहासी हैं -

S. Paul
on Mando


उप महिस्त्रर

Issued
on 1-10-04
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