

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 192 of 2001

Bilaspur, this the 7th day of July, 2004

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. A.S. Sanghvi, Judicial Member

Munna Lal Tiwari son of Shri B.P.
Tiwari, Serving as Labour in Section
Yard, Ticket No. 190/12380, Vehicle
Factory, Jabalpur Residence of
H.No.155, Chimni Plat, Madan Mahal
Jabalpur.

APPLICANT

(By Advocate - Shri Bhoop Singh)

VERSUS

1. The Union of India through Its
Secretary, Defence Deptt. New-Delhi.
2. Ordinance Factory Board Through
Chairman, 10-A, Sahid Khudiram
Bose Road, Calcutta.
3. The General Manager, Vehicle
Factory, Jabalpur.

RESPONDENTS

(By Advocate - Shri S.A. Dharmadhikari)

ORDER

By M.P. Singh, Vice Chairman -

By filing this OA, the applicant has sought the
following main relief :-

"I/ be quashed, the order of disciplinary
authority dated ; 15.10.96 and appellate order
dated 23rd Oct. 2000 passed by respondent no.2
& 3 and declared null & void and kindly be
directed the respondent to pay all the consequential
benefit to the petitioner.

II/ be directed to the respondent to return
the money of applicant".

2. The brief facts of the case are that the
applicant was working as Labourer(Unskilled) in Vehicle
Factory, Jabalpur. He was issued a charge-sheet under
Rule 14 of Central Civil Services (Classification, Control
& Appeal) Rules, 1965 on account of his misconduct of /
money lending inside the factory premises while on duty.
An enquiry officer was appointed to investigate into the
charge. The enquiry officer concluded the enquiry holding
the charge not proved, for want of direct evidence. The

disciplinary authority disagreed with the findings of the enquiry officer and recorded his note of disagreement. A copy of the note of disagreement along with a copy of the enquiry report was sent to the applicant to submit his representation. The applicant submitted his representation. The disciplinary authority considered the representation and the finding of the enquiry officer and other documentary and circumstantial evidence on record and thereafter imposed the penalty of reduction of pay by two stages with cumulative effect on the applicant. The applicant had filed his appeal against the order of punishment, which has been rejected by the appellate authority vide order dated 23.10.2000 (Annexure-A-5). Hence this OA.

3. Heard the learned counsel of parties.

4. The learned counsel for the applicant has argued that the charge levelled against the applicant had not been proved during the course of enquiry, however, the disciplinary authority has recorded a disagreement note without giving any reason. He has further contended that the disciplinary authority has based his disagreement note only on certain questions which were asked during the course of enquiry which are not at all relevant to the note of disagreement.



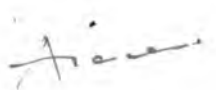
5. On the other hand the learned counsel for the respondents has stated that as he does not have the enquiry proceedings with him, he is not in a position to controvert the contentions raised by the counsel for the applicant. According to him, the disciplinary authority must have based his disagreement note on the evidence adduced during the course of enquiry. He was, therefore, asked to produce the DE proceedings.


6. The respondents have now produced the relevant DE records and we have carefully gone through it. We find that the enquiry officer has based his conclusion that the charges are not proved on the ground that none of the witnesses saw the applicant was indulged in the money

lending. However, the disciplinary authority has recorded a note of disagreement and has based his reasonings on the evidence of the basis of the/witnesses who have deposed in the enquiry and other evidence adduced during the course of enquiry.

It cannot be said that the disagreement note has been recorded without any evidence and we are satisfied that the disagreement note is based on the evidence available during the course of enquiry, although we are not required to reappraise the evidence. It is the satisfaction of the disciplinary authority to come to a conclusion on the basis of available evidence. We find that the enquiry has been conducted against the applicant as per the laid down procedure and the applicant has been given an opportunity of hearing by supplying a copy of the report of the enquiry officer as well as a copy of the disagreement note of the disciplinary authority. The applicant has filed a representation and the disciplinary authority has taken into consideration the representation of the applicant, finding of the enquiry officer, and note of disagreement, and thereafter/has rightly passed the impugned order, dated 15.10.1996. Against the said order dated 15.10.1996, the applicant's appeal was also rejected vide order dated 23.10.2000 holding that the penalty imposed on the applicant is justified and well warranted. We do not find any ground to interfere with the orders passed by the disciplinary & appellate authorities.

7. In the result, the OA is dismissed, however, without any order as to costs.


(A.S. Sanghvi)
Judicial Member


(M.P. Singh)
Vice Chairman