

**CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR AT INDORE CIRCUIT BENCH**

O.A. 223 of 2002

Date of Decision : 13-10-2004

Mr. N.Choudhary : Applicant(s)

Mr. S.N.Abhyankar : Advocate for the applicant (s)

Versus

Union of India & Ors. : Respondent (s)

Smt.S.R.Waghmare : Advocate for the respondent (s)

CORAM:

Hon'ble Mr.M.P.Singh : **Vice Chairman**

Hon'ble Mr. A.S.Sanghvi : **Member (J)**

ORDER

1. **Whether Reporters of Local papers may be allowed to see the Judgment?**
2. **To be referred to the Reporter or not**
3. **Whether their lordships wish to see the fair copy of the judgment ?**
4. **Whether it needs to be circulated to other Benches of the Tribunal ?**

Nagendra Choudhary
S/o. Shri Shukuldeo Prasad Choudhary
Occupation : Senior Operator,
R/o. : 25, Adarsh Nagar
Sector -A, B.N.P.Road,
Dewas-485 001.

: Applicant

Advocate: Mr.S.V.Abhyankar

Versus

1. Union of India, through:
Joint Secretary,
Ministry of Finance,
Department of Economic Affairs,
Mint & Press, North Block,
New Delhi.
2. General Manager & Appellate Authority
Bank Note Press, Dewas (M.P.)
3. Dy.General Manager &
Disciplinary Authority,
Bank Note Press, Dewas.
4. Shri S.Chakravary,
Assistant Works Manager,
Bank Note Press, Dewas (M.P.)

: Respondents

Advocate: Smt.S.R.Waghmare

ORDER
OA.223/2002

Date: 13-10-2004

Hon'ble Mr.A.S.Sanghvi : Member (J)

The applicant who was working as a Senior Operator under the respondent No.3 has approached this Tribunal

under Section 19 of the Administrative Tribunals Act, 1985 seeking ~~for~~ quashing and setting aside the punishment awarded to him by the respondent No.2 vide order dated 24.3.2001. He has also sought quashing of the charge sheet dated 10.8.1994 and prayed for reinstating him in Group Incentive Scheme with all consequential benefits. The case of the applicant briefly stated is that he was served with a charge sheet on dated 10.8.94, alleging that he had kept the machine idle on 7.7.1994 and 8.7.94 unnecessarily and that he had lodged a false complaint against his superiors on 12.7.1994. He was earlier vide order dated 6.7.94 reverted to the ordinary work from incentive scheme due to defective piece of 35 reams and that due to his negligence and carelessness there was a loss in the production. On the applicant denying the charges, an inquiry was held in the charges levelled against him. According to the applicant no charge sheet could have been given to him, In view of the decision in OA.634/94 reverting him to the normal working hours ~~was~~ passed by this Tribunal on 12.4.96 which meant that the applicant was deemed to have been continued in the scheme and as such, whatever he did between 6.7.94 to 12.4.96 should have been assessed on the basis of the standard of work required under the Group Incentive Scheme. The Inquiry Officer had submitted his report after completing the inquiry and a copy of the report

was supplied to the applicant. He had filed a representation against the inquiry report on 12.11.99 but without considering his representation the Disciplinary Authority vide his order dated 30.6.2000 imposed the penalty of stoppage of one increment without cumulative effect on the applicant. The appeal preferred by the applicant against the said order has also been rejected and hence, this OA is preferred. The applicant has alleged that he is being victimised by the respondents as he had challenged their action of reverting him to normal working hours. According to him the respondent No.4 was prejudiced against him and he was the person behind the issuance of the charge sheet to him. According to him on 7.7.94 he was ordered to work ^{for} ~~from~~ 8 hours from 8.00 p.m. to 3.30 a.m. . He had printed 40 reams and therefore, the allegation that he had kept the machine idle for one hour is quite baseless. He had put in more than the work required from him in 8 hours as according to the departmental guidelines an employee is required to produce/print 39 reams in 8 hours working whereas he had printed 40 reams. The charge leveled against him was therefore, quite baseless and incorrect. On this ground he has prayed for quashing and setting aside the order of punishment passed by the Disciplinary Authority.

2. The respondents on the other hand in their reply contended inter alia that the applicant while working as a Senior Operator was issued charge sheet vide Memo dated 10.8.94 for lack of devotion to duty, careless working and for not following the instructions of his officers/superiors in violation of Sub-Rule (ii) and (iii) of Rule 3 (1) of CCS (Conduct) Rules, 1964. According to them an inquiry was held in the charges levelled against the applicant as per the rules and regulations and full opportunity was given to the applicant to defend himself. They have denied that the charge sheet was given to the applicant out of prejudice or malafides as the respondent No.4 was prejudiced against the applicant. They have also denied that there was no basis for the charge sheet given to him. According to them the applicant was not devoted to his duty and disobeyed the orders of the higher officers, ~~and~~ worked carelessly and created obstacles in smooth functioning and was used to make false allegations against the officers. He was reverted to work in normal working hours w.e.f. 6.7.94 for defective printing of more than 35 reams. Since he had closed the machine No.2 on dated 7.7.94 during night shift between 11.00 to 12.15 hours and on 8.7.94 from 8.00 to 8.30 and from 11.30 to 12.15 a.m. and from 1.15 to 1.45 without any valid reasons and on account of this, his fellow crew members who were all in extended hours working could not achieve the stipulated production of extended hours. They have also stated

^{that} in spite of the advise of the superior officers how to start the machine and when to start and close the same, how to get better printing etc. ^{he did not start the machine -} He thereby disobeyed the orders of his superior officers due to which there was a loss of production on 7.7.94 and 8.7.94. They have maintained that the inquiry officer has found him guilty of the charges leveled against him on the evidence on record and therefore, the Disciplinary Authority has rightly imposed the penalty of withholding of one increment on him. His appeal was duly considered by the Appellate Authority but since there was no merit therein the same has come to be rejected by him. They have prayed that the OA be dismissed with costs.

3. We have heard the learned counsel of both the parties and duly considered the rival contentions.

4. Before we advert to the issues raised by the applicant in his OA, we may point out that it is a settled legal position that the jurisdiction of this Tribunal to interfere with the disciplinary matters cannot be equated with the appellate jurisdiction and we cannot interfere with the findings of the inquiry officer or disciplinary authority where these findings are not arbitrary or perverse or not based on no evidence. If there has been any inquiry conducted as per the rules and in accordance with the principles of natural justice, what

punishment would meet the ends of justice is a matter exclusively within the jurisdiction of the competent authority. If the penalty can lawfully be imposed and is imposed on proved misconduct the Tribunal has no power to substitute its own discretion for that of the authority. In the case of **B.C.Chaturvedi vs. Union of India (1995) 6 SCC 749** as well as in the case of **High Court of Judicature Bombay vs. Shri Shashikant S.Patil 2000 (1) SCC 416**, the Supreme Court has laid down that if there is some legal evidence on which the findings can be based, then adequacy or even reliability of that evidence is not a matter to be canvassed before the High Court under Article 226. It is also laid down that the decision of the disciplinary authority cannot be interfered with, if there is no violation of natural justice or statutory regulations.

5. In the instant case , there are no allegations of the inquiry being vitiated on account of the breach of the principles of natural justice or on account of the violation of any statutory rules. The order of the Disciplinary Authority is challenged only on the ground that the allegations made in the charge-sheet were false and were made only with a view to victimize him. Now whether the allegations made were false or correct could have been answered only by the Inquiry Officer after completion of the inquiry. There is no dispute and no grievance also made that the Inquiry Officer had conducted

the inquiry in the charges leveled against the applicant as per the rules and regulations. The significant aspect of the matter is that the applicant does not deny the charges of his keeping the machine idle for one hour on dated 7.7.94 and again on 8.7.94 . He also does not dispute the fact that his superiors had directed him to start the machine and work the machine and that he had disobeyed their orders. The allegation against the applicant is that due to keeping the machine closed ^{for} ~~only~~ two days, his fellow crew members who were all in extended hours working could not achieve the stipulated production of extended hours and thereby there was a loss of production on both the days. Since the ^{inquiry officer} ~~Disciplinary Authority~~ has found the charges levelled against the applicant as proved and that the applicant was nowhere in his OA alleged that the finding of the Inquiry Officer was perverse or illegal or not based on the evidence on record, the Tribunal cannot interfere with his finding. The order passed in the OA.634/94 by the Tribunal cannot have any nexus with the inquiry proceedings against the applicant as the inquiry proceeding was quite distinct and separate and not dependent on this order. The significant aspect of the matter is that the order in OA.634/94 was passed on 12.4.96 while the applicant has alleged ^{not to} ~~to~~ worked for certain hours on 7.7.94 and 8.7.94 . The OA 634/94 was still pending on the relevant dates and there was no direction from the Tribunal not to revert him back to the incentive

scheme. Hence, the ^{attempt} ~~admit~~ of the applicant to connect the orders passed in the earlier OA with the charge sheet given to him cannot succeed.

6. The allegations of malafides or prejudice against Respondent No.4 are ^{not} ~~proved~~ substantiated with any material evidence. Since they are not found substantiated the same cannot be entertained and are not considered. The penalty levelled on the applicant also cannot be said to be an excessive or unreasonably harsh in any sense and therefore, there is no reason to interfere with the same.

7. For the foregoing reasons, we do not find any merit in this OA and are of the opinion that the OA deserves to be rejected. The same is therefore, rejected with no order as to costs.


(A.S. Sanghvi)
Member (J)


(M.P. Singh)
Vice Chairman

Ab

पृष्ठान्तर्गत से ओ/आर/.....जबलपुर, दि.....

प्रतिनिधि जयशिव

(1) कतिजबलपुर

(2) नगरके काउंसिल

(3) नगरपालिकाके काउंसिल

(4) नगरपालिकाके काउंसिल

सुचना एवं जनसम्पर्क विभाग

जयशिव

SU Abhyankar
Ravi Waghmare

Issued
On 20.10.04