

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 265 of 2002

Jabalpur, this the 15th day of June, 2004

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

T.R. Singh, age 51 years,
S/o. Shri Ramadhar Singh Tiwari,
Lower Division Clerk,
Section G.A/02, P. No. 000569,
Ordnance Factory Khamaria,
R/o. House No. 355/1, Q-Type,
Khamaria Estate, Jabalpur (MP). ... Applicant

(By Advocate - Shri S. Nagu)

V e r s u s

1. Union of India, through
Secretary, Department of Defence
Production & Supplied, Ministry
of Defence, South Block, New Delhi.
2. The Chairman, Ordnance Factory
Board, 10-A, Khudiram Bose Road,
Kolkata.
3. General Manager,
Ordnance Factory, Khamaria,
Jabalpur. ... Respondents

(By Advocate - Shri K.N. Pathia)

O R D E R

By Madan Mohan, Judicial Member -

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

- "(i) to quash the impugned order of penalty
dated 18.6.2001 as being void illegal and arbitrary,
- (ii) to hold that the action of initiation,
conduction and concluding of the disciplinary
proceedings against the applicant, was unwarranted
and unlawful.
- (iii) to direct the respondents to restore the pay
of the applicant as if the penalty order was never
issued and accordingly fix the pay and release the
arrears of salary alongwith the all consequential
benefits of consideration for further promotions in
case juniors have been in the meantime promoted to
higher posts/grades.
- (iv) to quash the appellate order dated
20.6.2002 as being void illegal and arbitrary."

2. The brief facts of the case are that the applicant



substantively hold the post of LDC to which he was reverted from the post of UDC. On account of one Shri V.K. Bani being on leave from 14.5.1999 to 18.5.1999, several other personnel were detailed to discharge the duties relating to General Diary Work which included the task of receiving the official dak or application, forwarding the same to the indicated section and to make necessary entries in this regard in the Dak/Diary Register. The applicant was detailed to perform the aforesaid job on an officiating basis on 18.5.1999 only, Some other two persons were detailed on the other four days i.e. from 14th May to 17th May, 1999. The applicant discharged the aforesaid duty to the best of his ability and with utmost sincerity. The applicant received and dispatched all the dak to the correct and intended destination and also made the necessary entries in the Dak/Diary Register on 18.5.1999. The applicant was shocked to receive a charge sheet primarily alleging negligence in discharge of duty allegedly performed by the applicant on 15.5.1999 in lieu of Shri V.K. Bani. The applicant denied the charges and disciplinary enquiry was conducted which was violation of the statutory procedural provisions under the CCS(CCA) Rules, 1965. The enquiry officer exonerated the applicant of the charges but the disciplinary authority chose to differ with the findings of the enquiry officer and imposed the major penalty of reversion to lower grade from UDC to LDC till found fit after a period of five years from the date of imposition of the penalty on the applicant. The applicant preferred an appeal to the appellate authority and the appellate authority vide order dated 20.6.2002 has imposed the penalty by taking an extremely lenient view to that of reduction in pay to the minimum of the scale of grade of LDC, for a period of one year without cumulative effect. Aggrieved by this the applicant has

approached this Tribunal by filing this OA and claiming the aforesaid reliefs.

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

4. It is argued on behalf of the applicant that the enquiry officer has exonerated the applicant from the charges levelled against him. Hence this is a case of no evidence against the applicant. The applicant was not detailed to perform the duties on officiating basis from 14th May to 17th May, 1999. He was only detailed to perform the duties on officiating basis on 18.5.1999. He has committed no fault at all. He received and dispatched all the dak to the correct destination and also made the necessary entry in the Dak/Diary Register on 18.5.1999. Hence the enquiry officer has rightly exonerated him from the charges. But the disciplinary authority has dissented with the report of the enquiry officer which is baseless, and without any reason.

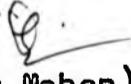
5. The learned counsel for the respondents has argued that the disciplinary authority has recorded the reasons for its dissenting and this is not a case of no evidence. The appellate authority has reduced the major penalty imposed by the disciplinary authority by taking a lenient view to that of reduction of pay to the minimum of the scale of grade of LDC, for a period of one year without cumulative effect. The applicant was given the opportunity of hearing and the impugned orders are passed in accordance with the rules and law and no illegality is committed by the respondents.

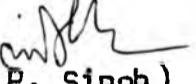
6. After hearing the learned counsel for the parties, we find that the disciplinary authority can legally

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dissent from the report of the enquiry officer and he has recorded the reasons for his dissenting from the record of the enquiry officer and this is not a case of no evidence. The appellate authority has reduced the penalty imposed by the disciplinary authority, vide order dated 20.6.2002 imposing the penalty of reduction in pay to minimum of the scale of grade of LDC, for a period of one year without cumulative effect. The departmental enquiry was conducted in accordance with statutory rules and procedures and reasonable opportunities were given to the applicant to rebut the charges. It is a settled legal proposition that the Courts/Tribunals cannot reappraise the evidence and also cannot go into the quantum of punishment unless it shocks the conscience of the Courts/Tribunals.

7. Considering all the facts and circumstances of the case, we are of the considered opinion that the applicant has failed to prove his case and the Original Application is liable to be dismissed as having no merit. Accordingly the Original Application is dismissed. No costs.


(Madan Mohan)
Judicial Member

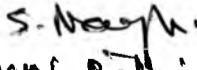

(M.P. Singh)
Vice Chairman

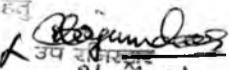
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पूर्णांकन सं. ओ/न्या.....जबलपुर, दि.....
चितिलिपि अधोरितः—

- (1) राधिन, उच्च व्यायालय दार एसेसियाज, जबलपुर
- (2) आवेदक श्री/श्रीमती/कु.....के कालाल
- (3) प्रदर्शी श्री/श्रीमती/कु.....के कालाल
- (4) दूसरी व्यायालय दार एसेसियाज, जबलपुर

सूचना एवं आवश्यक कार्यवाही हेतु


S. Naresh
KIN Pethia


B. Raghunath
24.6.04

Issued
on 24.6.04
by