

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

OA No.306/02

Jabalpur, this the 16th day of August, 2004.

C O R A M

Mon'ble Mr.M.P.Singh, Vice Chairman
Hon'ble Mr.A.K.Bhatnagar, Judicial Member

Amrit Lal Grawker
S/o Late Dal Chand Grawker
Chargeman Gr.I
(Since compulsorily retired)
R/o Qr.No.Type III, Sector II
No.3432, Vehicle Factory Estate
Jabalpur.

Applicant.

(By advocate Shri S.Paul)

Versus

1. Union of India through
its Secretary
Ministry of Defence
New Delhi.
2. The Director/Chairman
Ordnance Factory Board
10-A, Shahid Khudi Ram Bose Marg
Kolkata.
3. The Deputy Director General
Ordnance Factory Board
10-A, Shahid Khudi Ram Bose Marg
Kolkata.
4. The General Manager
Grey Iron Foundry
Jabalpur.

Respondents.

(By advocate Shri P.Shankaran)

O R D E R (oral)

By M.P.Singh, Vice Chairman

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

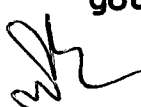
- (1) Set aside the punishment order dated 9th Aug.
2000 Annexure A1 and also appellate order
dated 22.2.02 Annexure A2.
 - (ii) Direct the respondents to reinstate the applicant
in service with full back wages, continuity of
service and other consequential benefits as if the
impugned disciplinary proceedings/punishment and
appellate order are never passed.
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2. The brief facts of the case are that the applicant was initially appointed on 16.3.1974 as Mill Wright. Subsequently he was promoted as Chargeman Gr.II. While he was working as such, he was issued with a charge sheet. The following three charges were levelled against him:

- (i) Misbehaviour with security staff and using abusive and unparliamentary language.
- (ii) Tearing off official documents.
- (iii) Habitual offender.


An enquiry was conducted to investigate into the charges. The enquiry officer conducted the enquiry and held that the charges were not proved. The disciplinary authority recorded a note of disagreement and sent the note of disagreement along with the findings of the enquiry officer to the applicant to submit a representation. The applicant submitted his representation against the note of disagreement recorded by the disciplinary authority. The disciplinary authority, after taking into consideration the reply/representation of the applicant, the findings of the enquiry officer and other material available on record, imposed the penalty of compulsory retirement on the applicant vide order dated 9th August, 2000 (Annexure A1). He preferred an appeal challenging the order of the disciplinary authority dated 9th Aug.2000. The appellate authority vide order dated 22.2.2002 (Annexure A2) rejected the appeal of the applicant. Hence this OA.

3. Heard counsel for both parties. Learned counsel of the applicant has taken mainly three grounds to defend his case. He has submitted that the complainant one P.C.Gupta did not know the name of the applicant. In fact, the name of the applicant was earlier Imriti Lal and he subsequently got his changed to Amrit Lal. The complainant himself has




admitted during the course of the enquiry that he knew the applicant by face but did not his correct name. He knew him only by name as Imriti Lal and came to know the correct name of the applicant only on 6.12.99 whereas he had given the complaint against the applicant on 5.12.99 by writing correct name as Amrit Lal. This clearly showed that the complaint made by P.C.Gupta was not a genuine one. The other ground taken by the learned counsel for the applicant is that the note of disagreement has been recorded by the disciplinary authority by adding one more charge to the applicant to the effect that he was found in a drunken condition. In fact, this is not a charge levelled against the applicant in the charge-sheet. Therefore, the finding in the note of disagreement is not based on the correct facts. The third ground taken by the learned counsel for the applicant is that the enquiry officer during his discussion and also in his findings has stated that he had called for the register which was stated to have been torn by the applicant in the complaint as also in the charge sheet. The enquiry officer had come to a definite finding after inspection that the same was not torn. on the other hand, the disciplinary authority has taken it as one of the grounds for recording the note of disagreement, stating that non production of the register will not make any difference. This ground taken by the disciplinary authority is wrong and not sustainable.

4. on the other hand, the learned counsel for respondents has submitted that the name of the applicant was earlier Imriti Lal which was in due course of time changed to Amrit Lal. The complainant P.C.Gupta knew him by the name of Imriti Lal only and knew him by face and, therefore, it makes no difference. He has also submitted that the appreciation of



evidence by the disciplinary authority is based on the correct facts and the same cannot be re-apprised by the Tribunal. He has also stated that it is not a case of no evidence as the applicant had left the place of duty and did not return for duty upto 5 o' clock and he was found loitering near the gate of the factory.

5. We have given careful consideration to the rival contentions. We find that the complaint was filed against the applicant by one P.C.Gupta. According to his own admission, made on 6.11.99 during the course of the inquiry, he did not know the correct name of the applicant as Amrit Lal, but in the complaint made by him on 5th Nov.'99 i.e. a day earlier, he had recorded the correct name of the applicant. This fact itself shows that the complaint made against the applicant was not a genuine one and the same had been ante-dated by the very same P.C.Gupta. Apart from that, there was no charge against the applicant that he was in drunken condition at the time of entering into argument with the security staff. However, this ground has been taken into consideration by the disciplinary authority on the basis of which the penalty of compulsory retirement has been imposed. This is not sustainable in the eyes of law and is liable to be set aside, as the applicant has not been given an opportunity to submit defence against this charge and thus principles of natural justice have been violated. The other ground taken by the disciplinary authority is that non production of torn register is immaterial. This ground taken by the disciplinary authority is also not sustainable. The enquiry officer himself had sought for the register and inspected the register and come to a definite finding that the register was not torn,



which was part of the charge sheet and, therefore, the charge was not proved in his finding. The disciplinary authority has taken that ground also while imposing the penalty of compulsory retirement of the applicant, which is also not sustainable. For the reasons recorded above, the grounds taken by the disciplinary authority for recording the note of disagreement are not based on correct facts. Therefore, the penalty orders passed by the disciplinary authority dated 9th August 2000 and appellate order dated 22.2.2002 are liable to be set aside.

6. For the reasons recorded above, the OA is allowed and the impugned orders dated 9th August 2000 and 22.2.2002 are quashed and set aside.

(A.K.Bhatnagar)
Judicial Member

(M.P.Singh)
Vice Chairman

aa.

पृष्ठंकन सं ओ/व्या.....जबलपुर, दि.....

पतिलिपि अद्योतित:-

(1) सचिव, उच्च न्यायालय वार एसोसिएशन, जबलपुर

(2) आवेदक श्री/श्रीमती/व्यु.....के काउंसल

(3) पत्नी श्री/श्रीमती/व्यु.....के काउंसल

(4) कंप्रहा, वे.प्र.अ., जबलपुर न्याय-रीट

सूचना एवं आवश्यक कार्यवाही हेतु

उप रजिस्ट्रार

Issued
On 19.8.04
SS

S. Paul
P. Shankam.