

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH

CIRCUIT CAMP : INDORE

Original Application No.326 of 2001

Indore, this the 12th day of November, 2003

Hon'ble Shri M.P.Singh - Vice Chairman  
Hon'ble Shri G.Shanthappa-Judicial Member

Pyarelal Chouhan S/o Dulichand Chouhan,  
aged 53 years, Occupation-Service,  
r/o 2291, Luniapura, Mhow, Distt. Indore, MP

- APPLICANT

(By Advocate . Shri Ab.Mazeed Darbari)

Versus

1. Union of India through Ministry of Defence,  
New Delhi.
2. Director General of Military Training(MT-7),  
General Staff Branch, Army Staff Branch,  
Army Headquarters, DHQ PO New Delhi-110011.
3. Commandant, Infantry School, Mhow.

- RESPONDENTS

(By Advocate - Smt.S.R.Waghmare)

O R D E R (Oral)

By M.P.Singh, Vice Chairman -

The applicant by filing this Original Application has  
claimed the following<sup>main</sup> reliefs -

- "(a) Order of removal (sic - compulsory retirement) from  
service passed by respondent no.3 on 6.11.99  
(Ann.A/13 be declared void and illegal and against  
the natural justice and be quashed.
- (b) Order of rejection of appeal against above order  
of compulsory retirement (Ann.A/15) be quashed and  
be declared as illegal.
- (c) That petitioner be declared to be in service  
regularly and salary and allowances be awarded  
from the date of illegal removal from service  
and respondents be directed to take petitioner  
in service as a regular employee.

2. The brief facts of the case are that the applicant was  
issued a memorandum dated 16.12.1998 under Rule 14 of CCS(CCA)  
Rules, 1965 on the charge that he refused to accept the movement  
order and advance of TA/DA at about 1115 hrs on 18.11.1998 and  
also refused to accept the show cause notice dated 27.11.1998 on  
28.11.1998. An enquiry was conducted against the applicant to

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enquire into the charges. As per the findings of the enquiry officer the charges levelled against the applicant have been proved. A copy of the enquiry proceedings and finding of the enquiry officer were supplied to the applicant to provide him an opportunity to submit his representation. On 6th October, 1999 the applicant submitted his representation. The disciplinary authority after taking into consideration the representation of the applicant passed the order imposing the penalty of compulsory retirement on 6.11.1999. Thereafter the applicant has filed a detailed appeal on 14.12.1999 (Annexure-A-14). The appeal has been rejected by the respondents vide order dated 25.5.2000 (Annexure-A-15). Hence the applicant has filed this application.

3. Heard the learned counsel for both the parties at a great length and we have also perused the pleadings and documents available on record carefully.
4. The learned counsel for the applicant has submitted that there were several procedural infirmities in the enquiry proceedings. He submitted that on his request the enquiry officer was changed but at the same time the proceedings held by the earlier enquiry officer were held invalid. He also submitted that the penalty imposed on the applicant is disproportionate looking to the gravity of the charge.
5. On the other hand the learned counsel for the respondents has vehemently opposed the plea taken by the learned counsel for the applicant, and has also submitted that the appellate authority has considered all the issues raised by the applicant. Therefore, this OA is liable to be dismissed.
6. On a careful consideration of the pleadings, appeal submitted by the applicant and the appellate order we find that the appellate authority has not examined and considered all the issues raised by the applicant. In this view of the matter the order of the appellate authority at Annexure-A-15 is not sustainable in the eye of law and accordingly it dated 25.5.2000 is quashed and the appellate authority is

7. In the result, the OA is allowed in part in the above terms. No costs.

*M.P. Singh*  
(M.P. Singh)  
Vice Chairman

पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....

- (1) AM Harbari, Adar DND  
(2) AM Harbari, Adar DND  
(3) AM Harbari, Adar DND  
(4) AM Harbari, Adar DND

Uthmaniyah  
18.11.03

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