

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application 416 of 2001

Jabalpur, this the 29th day of April, 2004

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

Abdul Hafeez, S/o Sheikh Mulayam,  
Aged 41 years, R/o 778-A, South  
Miloni Ganj, Jabalpur, M.P.

APPLICANT

(By Advocate - None)

VERSUS

1. Union of India,  
Through Secretary (Defence),  
Sough Block, New Delhi.
2. Chairman, Ordnance Factory Board,  
10-A, Shaheed K. Bose<sup>Road</sup>, Kolkata,  
West Bengal.
3. General Manager, Ordnance Factory,  
Khamaria, Jabalpur, M.P.

RESPONDENTS

(By Advocate - Shri K.N. Pethia)

O R D E R (ORAL)

By M.P. Singh, Vice Chairman -

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

"(i) a writ of 'Certiorari' quashing the impugned order passed by respondents no.2 & 3.

(ii) a command to the respondents to grant all consequential relief and benefits admissible to the applicant".

2. The brief facts of the case are that the applicant was appointed as a Machinist in the Ordnance Factory, Khamaria, Jabalpur. He was promoted to the post of Highly Skilled Gr.II, Machinist. He was issued a charge-sheet vide memo dated 6.1.1999 (Annexure-A-1) for gross misconduct of tampering with the official documents. An enquiry was held against him. The enquiry officer held the charges not proved. The disciplinary authority has recorded a note of disagreement with the findings of the enquiry report. A copy of the note of dissent <sup>agreement l</sup> along with a copy of

the enquiry report was supplied to the applicant to submit his representation. The applicant submitted his representation. The disciplinary authority vide its order dated 1st September, 2000 imposed the penalty of reduction in pay by one stage of the grade of Machinist HS-II from Rs.4400/- to Rs.4300/- in the time scale of Pay of Rs.4000-100-6000 for a period of one year with cumulative effect. He filed an appeal challenging the order of the penalty, and the appellate authority vide his order dated 19.4.2001 (Annexure-A-6) has rejected his appeal. Aggrieved by this, the applicant has filed this OA.

3. The respondents in their reply have stated the applicant was issued the charge-sheet under Rule 14 of the CCS(CCA)Rules,1965 for gross misconduct of tampering with the official documents. An enquiry was conducted to investigate into the charges. The charge no.1 was not established during the enquiry, however, the disciplinary authority, after perusal of the material placed during the enquiry, gave its own finding disagreeing with the enquiry officer. A copy of the dissenting note was served on the applicant. The applicant had submitted his representation. The disciplinary authority after carefully considering the facts and representation of the applicant, found him guilty and imposed the penalty of reduction of one stage for a period of one year with cumulative effect. The appellate authority has also rejected the appeal of the applicant against the aforesaid order of penalty.

4. None was present on behalf of the applicant. As this is a matter of the year 2001, we have decided to dispose of this OA, by invoking the provisions of Rule 15 of Central Administrative Tribunal (Procedure)Rules,1987. Accordingly, we have perused the pleadings and heard the learned counsel for the respondents.

5. In the OA, the applicant has contended that the charges against him have not been proved by the enquiry officer. The disciplinary authority has recorded the note of disagreement which is not based on facts and evidence. According to him,



he has not committed any misconduct and it is a case of no evidence. Therefore, the orders passed by the disciplinary and appellate authorities are liable to be quashed and set aside and he be granted all consequential benefits along with cost of this OA.

6. On the other hand, the learned counsel for the respondents has stated that the applicant has admitted his guilt. Though the enquiry officer has held the charge no.1 as not proved, the disciplinary authority has recorded a note of disagreement with the report of the enquiry officer, on the basis of admission of guilt by the applicant and other evidence adduced during the course of enquiry. He contends that it is on that basis, the penalty has rightly been imposed by the disciplinary authority and the appeal against the said punishment has rightly been rejected by the appellate authority. Therefore, no interference is called for.

7. We have given careful consideration to the arguments advanced by the learned counsel for the respondents as well as to the contentions raised by the applicant. We find that the applicant was issued a charge sheet for tampering with the record by including the name of three persons in the list of players. An enquiry has been conducted and the charges have not been proved. During the course of enquiry the prosecution witness Shri W.Lal, who was the Captain, has deposed, in reply to the question -Who has included the names in the list?, that "Shri Abdul Hafeez (applicant) has included the names in the list as per my suggestions, since I was in hurry to go to GCF's preparation". We also find that the applicant vide his letter dated 24.8.2000 (Annexure-A-3) has denied the charge and has stated that he has included the names on the <sup>suggestions</sup> satisfaction/orders of Shri Mukherjee, Secretary Sports and Shri W.Lal, Team Captain. We also find that the disciplinary authority has recorded a note of

disagreement only on the basis of the fact that the applicant has admitted his guilt. From the record, we find that the applicant has <sup>ultimately</sup> <sub>not</sub> admitted his guilt and the listed prosecution witnesses have themselves deposited that the applicant was not at fault and he had included the names of the three persons on the suggestion/orders of the Secretary Sports Committee and the Team Captain. The applicant has stated that since during the course of enquiry the complainant himself has stated that on his orders the names have been included by the applicants he had not produced his defence witness during the course of enquiry. The learned counsel for the respondents has not been able to produce any supporting evidence which could prove that the names have been included by the applicant on his own in the approved list. Therefore, this is a case of no evidence and the OA deserves to be allowed.

8. In the result, the OA is allowed. The orders passed by the disciplinary & appellate authorities are quashed and set aside. The respondents are directed to grant all consequential benefits to the applicant within a period of four months from the date of receipt of a copy of this order. In the facts and circumstances of the case, the parties are directed to bear their own costs.

*A.S. Sanghvi*  
(A.S. Sanghvi)  
Judicial Member

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

rkv.

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

प्रतिलिपि आयोगितः—

- (1) उपर्युक्त उच्च व्यायामाय बाबर एसोसिएशन, जबलपुर
- (2) लोकोपचारी/वीकारी/कु..... के काउंसल A P Singh
- (3) प्रत्ययी श्री/श्रीमती/कु..... के काउंसल K N Pethia
- (4) अंतर्राज, केन्द्र, जबलपुर व्यायामीठ

सूचना एवं आवश्यक कार्यवाही हेतु

*Parimalay*  
उप संसदीय  
10/5/04

*Ex/07/04*