

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

ORIGINAL APPLICATION NO.457 of 2001

Jabalpur, this the 3<sup>rd</sup> day of March, 2003.

Hon<sup>ble</sup> Mr. Shanker Raju, Member (Judicial)  
Hon<sup>ble</sup> Mr. R.K. Upadhyaya, Member (Admnv.)

Hori Lal, aged 58 years,  
Ex. T.No.1079/IE I-70 (N)  
Fitter HS Gr.II M.No.150, Faistise  
Mosque Garha Pathak, Jabalpur.

-APPLICANT

(By Advocate- Mr. R.K. Gupta)

Versus

1. Union of India through  
the Secretary, Ministry of Defence,  
New Delhi.
2. The Chairman,  
Ordinance Factory Board,  
10/A, S.K. Bose Road, Calcutta.
3. General Manager,  
Gun Carriage Factory,  
Jabalpur (M.P.)

-RESPONDENTS

(By Advocate- Mr. S.P. Singh)

ORDER

By R.K. Upadhyaya, Member (Admnv.):

The applicant is aggrieved by the order of removal from service passed by the Disciplinary Authority on 31.07.1998 (Annexure A-1). This order of punishment has been confirmed by the Appellate Authority by his order dated 30.09.1999 (Annexure A-9).

2. By an order dated 20.03.2002, this Tribunal observed that the applicant who remained absent for two years without informing the department and during the course of enquiry has not participated, does not deserve the admission of O.A. on merits. But keeping in view the fact that he had already completed more than 35 years of service

Contd...P/2.

at the time of removal, we issue notice to respondents only on the ground of proportionately of punishment".

3. It is claimed by the applicant that he was working on the post of Fitter Highly Skilled Grade-II. He was issued a charge sheet as per memorandum dated 05.10.1997 (Annexure A-4). First charge related to absence from duty unauthorisedly without intimation or sanction of leave before hand from 15.07.1996 to 14.08.1997. Even after 14.08.1997, he was continuously absent. The second article of charge related to irregular attendance and frequently taking leave. The third article of charge related to no improvement in his conduct in spite of repeated punishments. The contention of the applicant is that he was suffering from tuberculosis since June 1996, He was advised ~~for~~ complete rest. It is further claimed that the medical certificates confirming his illness sent by the applicant were not accepted by the concerned officials. It is also claimed that when the applicant went to join his duties on 06.08.1998, he was informed that his services were terminated by order dated 31.7.1998 (Annexure A-1). The applicant claims that he denied the charges levelled against him, but the Disciplinary Authority had got the enquiry conducted ex-parte without affording any opportunity to the applicant. The learned counsel of the applicant also stated that the Enquiry Officer had mentioned and relied <sup>on</sup> certain documents, which were never shown to the applicant nor ~~mentioned~~ <sup>by</sup> mentioned in the charge sheet. The applicant was to retire within two years and had rendered service for 36 years, but the respondents have ignored all these facts in "most in human manner". The learned counsel stated that the punishment order as well as the appellate order should be quashed and all consequential benefits be allowed to the applicant.

4. The learned counsel for the respondents invited attention to the reply filed by the respondents, in which it has been stated that the appeal of the applicant was disposed off on 16.11.1999 and the present O.A. filed on 10.07.2001. According to him, the application for condonation of delay was now ~~now~~ filed by the applicant on 27.08.2001, does not explain the delay indicating any sufficient cause for such delay. A bald statement has been made by the applicant that the application is delayed by "some days due to severe sickness of the applicant". There is no supporting evidence of sickness and whether the entire period of delay is covered by such illness is not indicated. It was, therefore, urged that this application be dismissed on this ground alone. The respondents have further invited attention to the past conduct of the applicant, wherein he has been imposed penalty in the year 1964, 1988, 1994 and 1997. The applicant unauthorisedly absented himself and has not shown any improvement in his attendance. On receipt of the charge sheet, the applicant did not submit any reply. The Disciplinary Authority also issued a reminder to the applicant. In view of the non-co-operation of the applicant, the Disciplinary Authority appointed a Court of enquiry. The Enquiry Officer summoned the applicant to appear in the Court of enquiry. In spite of service of notice, the applicant did not appear before the Enquiry Officer. After following due procedure, the Enquiry Officer submitted his report to the Disciplinary Authority, a copy of which was forwarded to the applicant for giving any explanation, but the applicant did not give any reply, even to this show-cause notice. The applicant has been imposed a penalty of removal from service. The appellate authority after considering the appeal of the applicant as well as relevant

*G. S. Narayan*

records has rejected the appeal. It was urged by the learned counsel for the respondents that the scope of interference by this Tribunal is limited, in view of the fact that all prescribed procedures have been followed and there is no violation of principles of natural justice.

5. We have heard the learned counsel of both the parties and have perused the material available on record including the disciplinary proceeding file, which was produced by the respondents at the time of hearing.

6. The applicant has not filed any rejoinder. Therefore, the contentions of the respondents remained uncontroverted. The application for condonation of delay does not bring out sufficient reasons for condonation of delay for the entire period. Therefore, the application deserved to be dismissed as barred by limitation itself. However, we have gone through the records to find out, if there is any merit in the submissions made by the applicant. It is a fact that the applicant has been absenting himself frequently without any advance sanction of leave. The past record of the applicant in this case shows that he has been warned and punished, but that has not brought any improvement in the conduct of the applicant. The respondents have taken recourse to legal remedy by issuing a charge sheet against the applicant. The applicant has not co-operated in the course of the enquiry or even before the Disciplinary Authority. Reliance has been made by the learned counsel for the applicant on the order of this Tribunal in the case of Hari Prasad Billore Vs. Union of India & others decided on 28.11.1986, (1987)4 Administrative Tribunals Cases 554 is mis-placed. In that case, the applicant had initially co-operated with the enquiry, but subsequently could not appear, even the

employee had informed the Enquiry Officer before hand that the time allowed for his attendance was not sufficient. In spite of that in that case, the Enquiry Officer had proceeded with ex-parte hearing. The facts in this case are entirely different. The applicant has neither replied to the charge sheet nor has appeared before the Enquiry Officer in spite of due notice. Therefore, that decision does not help the applicant. There is no violation of principles of natural justice in this case. The penalty imposed is also not disproportionate in view of the past record of the applicant and seriousness of the charges. Therefore, this Tribunal cannot interfere with the orders of the respondents. In this view of the matter, there has been no merit in the case, the application deserves to be dismissed on merit also.

7. In the result, this application is dismissed both on the ground of being barred by limitation as well as being devoid of merit without any order as to costs.

*(Handwritten signature)*

(R.K. Upadhyaya)  
Member (Admv.)

*(Handwritten signature)*

(Shanker Raju)  
Member (Judicial)

'MA'

पृष्ठकल सं जो/न्या.....  
पदिनिधि  
(1) ...  
(2) ...  
(3) ...  
(4) ...  
सूचना एवं प्रकाशन

*(Handwritten notes)*  
R.K. Gupta & Co  
S.D. Singh & Co

*(Handwritten signature)*  
24/03

*(Handwritten note)*  
Issued  
on 2-4-03  
BS