

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No.514 of 2002

Jabalpur, this the 9<sup>th</sup> day of March, 2004.

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

Krishn Shrivastava, aged  
about 29 years, son of Shri  
K.P. Shrivastava, residing at  
Q.No. 3027, Near St.Gabriel's  
Higher Secondary School,  
Chandan Colony, Ranjhi  
Jabalpur, (M.P)

APPLICANT

(By Advocate - Shri Anil Khare and Sh.H.B.Shrivastava)

VERSUS

1. Union of India, through Secretary,  
Ministry of Defence, Government  
of India, New Delhi.
2. Chairman, Ordnance Factory  
Board, 10, A Shaheed Khudiram  
Bose Road, Kolkata (West Bengal)
3. General Manager, Ordnance  
Factory, Khamaria, Jabalpur  
(M.P.)
4. Employment Officer,  
Employment Office, Katni.

RESPONDENTS

(By Advocate - Shri P.Shankaran)

ORDER

By M.P. Singh, Vice Chairman -

By filing this Original Application the applicant has sought a direction to quash the order of removal from service dated 20.6.2001 (Annexure-A-1) passed by the respondent no.3. He has also prayed to quash the order dated 3.6.2002 by which his appeal against the order of removal has been rejected by the respondent no.2. The applicant has further prayed a direction to the respondent no.3 to reinstate the applicant and grant him all back wages with consequential benefits along with interest.

2. The brief facts of the case are that the applicant while working as a Chargeman Grade-II in Ordnance

Khamaria, Jabalpur was issued a memorandum dated 19.6.2000 (Annexure-A-8) under Rule 14 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965, in which the following charges were levelled against him -

(i) producing fake experience certificate for the sake of securing employment to the post of Chargeman Gr.II (Chem) in the year 1996 and thus cheated the Govt. which construes gross misconduct; and

(ii) continuing his employment at Ordnance Factory Khamaria, which he secured by fraudulent means on production of fake experience certificate obtained from one M/s Navrang Chemical Works, Jabalpur. Thus he adopted fraudulent means to secure employment which he never disclosed while continuing his employment and therefore committed a gross misconduct.

On denial of the charges by the applicant, an enquiry was conducted. As the enquiry officer placed undue over reliance on the evidence produced by the defence, the disciplinary authority disagreed with the findings of the enquiry officer. A copy of the finding of the enquiry officer along with the dissenting note was served on the applicant to submit his representation. The applicant submitted his reply on 12.6.2001. The disciplinary authority after considering the representation of the applicant, found the applicant guilty of the charges levelled against him and imposed the penalty of removal from service. The applicant preferred an appeal against the order of removal on 16.7.2001 and also filed O.A. No.95 of 2002 before this Tribunal. The Tribunal vide order dated 5.4.2002 directed the appellate authority to dispose of his appeal by passing a reasoned and speaking order. The appellate authority vide impugned order dated 3.6.2002 (Annexure-A-2) has rejected the appeal. Hence this O.A.

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

4. During the course of arguments, the learned counsel for the respondents placed reliance on an earlier decision of this Tribunal in O.A.No.518 of 2002, Anil Kumar Vs. Union of India and others, decided on 4.7.2003. The learned counsel has

contended that the facts of the case of Anil Kumar (supra) are pari materia similar to the present case and in view of the findings given in the said case, this OA may be dismissed.

5. We have carefully gone through the judgment in the case of Anil Kumar (supra). Para 9 of the said judgment reads as under-

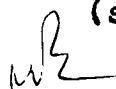
"In the case in hand, as has been mentioned above, the fact remains that after the death of the owner of M/s Navrang Chemical Works, the widow got the sales tax registration cancelled in 1987. Thus, legally the firm was not in existence for production. Though it is not in evidence who actually signed and issued the experience certificate to the applicant, on the letter head of the firm, but that would not make any difference so far the validity of the certificate is concerned. The certificate would remain invalid as the same was issued after 1987.

We find that in the instant case also a certificate of experience from 10.10.1993 to 25.11.1995 was issued to the applicant by the aforesaid firm i.e. Navrang Chemical Works. In the case of Anil Kumar (supra) the Tribunal has also observed as under-

"The learned counsel of the applicant submitted that even if it be taken that the Salex Tax registration was cancelled but the management engaged the applicant to work in the firm, the certificate cannot be fake. In our view, however, in case the submission of the learned counsel of the applicant is accepted, it would be giving validity to a certificate issued by a non-existent firm. Hence the submission cannot be accepted.

6. The learned counsel for the applicant has contended that it is not always necessary to register a firm with the Sales Tax Department. However, on a query from the Bench ~~that~~ even for a small transaction, it is necessary to register a firm with the Sales Tax Department, the learned counsel for the applicant failed to produce the relevant provision under which the firm is not required in a small transaction to be registered with the Sales Tax Department.

7. In view of the foregoing we find that this case is fully covered by the decision in the case of Anil Kumar (supra) and we are in full agreement with the view taken

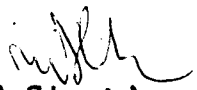


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by the Tribunal in the said case.

8. In the result, the O.A. is bereft of merits and is accordingly dismissed. No costs.

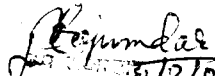
  
(Madan Mohan)  
Judicial Member

  
(M.P. Singh)  
Vice Chairman

rkv.

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Anil Kham  
P. Shrivastava

  
11/3/04

Issued  
11.3.04