

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application NO.515 of 2002

Jabalpur, this the 11th day of August, 2004

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

Rajendra Kumar Jaiswal,
Ex-Labour, Ticket No.2032
Arty Sub-Depot,
Central Ordnance Depot,
Jabalpur(M.P.)
(U/o of Compulsory retirement)

APPLICANT

(By Advocate - Shri M.Mishra)

VERSUS

1. Union of India
through Secretary,
Ministry of Defence,
New Delhi.
2. The Director General of
Ordnance Services,(S-8C-II)
Master General of Ordnance
Branch, Army H.Qs. DHQ,
P.O., New Delhi-110001.
3. The Commandant,
Central Ordnance Depot,
P.B.No.20, Jabalpur(M.P)

RESPONDENTS

(By Advocate - Shri P.Shankaran)

O R D E R

By Madan Mohan, Judicial Member --

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

"ii) to issue a writ in the nature of certiorari quashing the impugned order dated 28.2.2002, Annexure.A-1.

iii) to set aside the order dated 28.2.2002 (Annexure A-1)


iv) to direct the non-applicants to reinstate the applicant with immediate effect and treat the period of absence as period spent on duty and the entire back wages also be paid to the applicant.

v) to pay the consequential benefits of pay, perks and status and arrears of pay thereof, which may have accrued, to the applicant may also be paid"



2. Brief facts of the OA are as follows:


Applicant was appointed on the post of Labour in Central Ordnance Depot, Jabalpur in the year 1988. Pursuant to a complaint made by the then Sub Depot Commander, Maj. A.S.Pawar dated 19.8.98, the applicant was placed under suspension by an order dated 20.8.98 on an alleged incidence of misconduct, inter-alia, stating that the applicant had used abusive language and had threatened the then Sub-Depot Commander. A charge sheet along with the statement of imputation of misconduct was served on the applicant vide letter dated 22.10.98 (Annexure A3). The applicant filed reply dated 19.8.98 denying all the charges. By an order dated 23.11.98 the suspension of the applicant was revoked. Applicant's reply to the charge sheet was not found satisfactory and thereafter a regular departmental enquiry was contemplated against him by an order dated 18.1.99 (A-6). The prosecution witnesses did not depose anything against the applicant. The applicant was allowed to examine his defence witnesses. The enquiry officer after perusing the entire material on record submitted his enquiry report dated 31.5.2000 clearly stating that the charges levelled against the applicant was not proved. The disciplinary authority after perusing the record dissented with the findings of the enquiry officer by his dissenting note dated 22.9.2000 (Annexure A-11). The dissenting note was forwarded to the applicant to make his comments along with a copy of the enquiry report. The applicant promptly replied to the dissenting note vide his reply dated 10.10.2000. (A-12). The disciplinary authority rejected the reply and imposed on the applicant the punishment of dismissal from service (Annexure A13). The applicant preferred an appeal. The punishment was modified to that of compulsory retirement vide order dated 28.2.2002 (Annexure A1). Aggrieved by the order of compulsory retirement, this OA was filed.



3. Heard the learned counsel for both parties. It was argued on behalf of the applicant that this is a case of no evidence and the charges against the applicant are not proved at all by any evidence. Two witnesses were examined before the enquiry officer apart from Maj.A.S.Pawar and both the witnessess did not support the alleged incidence. Maj. A.S.Pawar made various contradictions and omissions in his statement vis-a-vis his statement made in the preliminary enquiry. The charges against the applicant were not proved and the enquiry officer had rightly exonerated the applicant. It was a fit case of no evidence and on that score alone, the impugned order deserves to be set aside.

4. In reply, the learned counsel for respondents argued that the disciplinary authority had considered the report of the enquiry officer very minutely and after considering all the facts and circumstances he had passed the dissenting note in detail (A-11) and further argued that the sole testimony of a high ranking official like Major should not be discarded and this case was not a case of no evidence and further argued that the punishment imposed on the applicant was not harsh.

5. After hearing the learned counsel for both parties and carefully perusing the records, we find that Major Pawar had started the alleged incident though other witnesses had not supported his case but merely on the ground that he was himself an interested person whose sole testimony should not be ignored. Hence this case cannot be said to be a case of no evidence. We have perused the dissenting note of the disciplinary authority which is based on sufficient and justified reason. Due opportunity of hearing was given to



the applicant and the orders passed by the authorities concerned are speaking orders but so far as the punishment is concerned, it is harsh. It shocks our conscience. Hence the impugned order dated 28th Feb. 02 (Annexure A1) is quashed and set aside and the respondents are directed to impose any other punishment on the applicant other than removal/dismissal/compulsory retirement, within a period of three months from the date of receipt of the copy of this order.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

aa.

पृष्ठांकन सं. ओ/न्या.....जयपुर, दि.....
पसिलिपि अयोधित:-

- (1) अधिक, उच्च न्यायालय एवं एडमिनिस्ट्रेशन, जयपुर
- (2) आलेख श्री/श्रीमती/श्रीको सौंपल
- (3) प्रत्यक्ष श्री/श्रीमती/श्रीको सौंपल
- (4) दफ्तर, एडमि. जयपुर न्यायाधीश
सूचना एवं आवश्यक कार्यवाही हेतु

M. Sharma
P. Sharma

उप रजिस्ट्रार

16-8-04

Issued
on 16.8.04
SS