

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 525 of 2002

Jabalpur, this the 2<sup>nd</sup> day of June 2004

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

Krishna Kumar Sahu, S/o. Shri  
N.P. Sahu, aged about 50 years,  
working as Chargeman Grade-II,  
Section F-8, Personnel No. 846307,  
Ordinance Factory, Khamaria.

... Applicant

(By Advocate - Shri A.S. Raizada)

V e r s u s

1. Union of India, through  
Secretary, Ministry of  
Defence, New Delhi.
2. Chairman, Ordinance Factory  
Board, 10-A Saheed Khudi Ram  
Bose Road, Kolkatta.
3. General Manager,  
Ordinance Factory, Khamaria.

... Respondents

(By Advocate - None)

O R D E R

By Madan Mohan, Judicial Member -

None is present for the respondents. Since it is an old case of 2002, we proceed to dispose of this Original Application by invoking the provisions of Rule 16 of CAT (Procedure) Rules, 1987. Heard the learned counsel for the applicant.

2. By filing this Original Application the applicant has claimed the following main relief :

"3. to quash the order dated 9.8.2001 and also quash the appellate order."

3. The brief facts of the case are that the applicant is working as Chargeman Grade-II. Vide order dated 18.12.2000 he was served with a charge sheet. The applicant submitted his reply. Thereafter a penalty of withholding of one increment for a period of one year without cumulative effect was imposed

on the applicant vide order of the disciplinary authority dated 9.5.2001 (Annexure A-3). The applicant preferred an appeal against the order of the disciplinary authority before the appellate authority. The same was also rejected by the appellate authority vide order dated 7th December, 2001. (Annexure A-5). The disciplinary authority as well as the appellate authority failed to consider the case of the applicant in proper perspective. It should have been seen that it is not proved that the applicant has done manipulation in the punching card. In the defence production units at the main gate there is a man from the defence security and a Darban and also in the main gate there is a room in which the security officer sits, whose duty is to note down the persons going out and coming in and the vehicles entering in the factory and outing out of the factory. Normally, on the other side of this room, there is a clock, which is called as a punching clock. Adjacent to punching clock, there is a rack in which the cards of the employees are kept. There is one man who had duty to watch the clock and the staff is supposed to take out the card put it in the punching clock while entering into the factory and going out the factory. The over time payment is made on the basis of entry of timings in the punching card. Hence the custodian of the punching card is the Security office and the establishment section of the factory. In the instant case, the applicant has been charged with for tampering in the punching card which is not possible because the allegation is of the date for which the entire salary have been paid to the applicant. If there was any tampering, then action would have been taken against the applicant and less payment of salary will be made to the applicant. No action has been taken against the punching staff by the management nor he was given an opportunity to explain his conduct.



The impugned orders passed by the authorities are illegal and are liable to quashed and set aside.

4. It is argued on behalf of the applicant that it was not possible for the applicant to tamper with the punching card. No action has been taken by the management against the punching staff. The charges against the applicant are not proved. The impugned orders are non-speaking having no reasons and the applicant has not committed any mistake at all.


5. The learned counsel for the respondents has filed the reply and in which the respondents have mentioned that this is a case of minor penalty i.e. withholding of one increment without cumulative effect for a period of one year. Hence, departmental enquiry was not legally required to be conducted. It is further submitted that the applicant has accepted the guilt for not putting the timings in the attendance register kept at F-8 section to ensure his time reached in the section. Reasonable opportunity was given to the applicant and due procedure was followed before awarding the alleged minor punishment on the applicant. Hence no irregularity or illegality has been committed by the respondents while passing the impugned orders.


6. After hearing the learned counsel for the applicant and perusal of the pleadings and record, we find that the order passed by the disciplinary authority and the appellate authority are speaking orders. In the appellate authority order of the it is clearly mentioned that the applicant in his written statement of defence dated 23.12.2000, had admitted the charge for non-entering the in timing in the attendance register which was kept at F-8 section. Hence this is not a case of no evidence. We also find that in Annexure A-4 the applicant has mentioned that due to some personal difficulties he had occasionally come late and late marking was done

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in the muster and the payment of such lates were not given to him. This can be seen from the records that in all late arrivals, the salary has been recovered in earlier case. Thus we find that the applicant is a habitual late comer. The applicant submitted the reply of the charge sheet issued by the respondents and denied all allegations but he accepted the guilt for not putting timing in the attendance register kept at F-8 section to ensure his time reached in the section. The disciplinary authority examined the reply of the charge sheet and report made by the foreman and also the documents and found that the applicant committed grave misconduct by <sup>and</sup> tampering his punching card/for this disciplinary authority has taken a very liberal view towards the applicant and imposed a minor penalty by stopping one increment without cumulative effect for a period of one year. The applicant was given due opportunity of hearing as he has filed the reply to the charge sheet and he has also filed an appeal against the disciplinary authorities order. Hence the principles of natural justice has been followed by the respondents and no irregularity or illegality has been committed by the respondents while passing the impugned orders. It is a settled legal proposition that the Courts/Tribunals cannot reappraise the evidence and also cannot go into the quantum of punishment unless it shocks the conscience of the Courts/Tribunals.

7. Hence we are of the considered opinion that the applicant has failed to prove his case and the Original Application is liable to be dismissed as having no merits. Accordingly, the Original Application is dismissed. No costs.

  
(Madan Mohan)  
Judicial Member

  
(M.P. Singh)  
Vice Chairman