

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

OA No.568/02

Jabalpur, this the 5th day of ~~October~~, 2004.

C O R A M

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

Imrat Lal
S/o Late Bhawani Prasad Soni
LDC
R/o C/o Suresh Agrawal
620, Uprainganj
Jabalpur(MP)

...Applicant

(By advocate Shri S.Paul)

Versus

1. Union of India through
its Secretary
Ministry of Defence
New Delhi.
2. Chairman/DGOF
10-A, Shaheed SK Bose Marg
Kolkata (WB)
3. Sr.General Manager
ordnance Factory
Khamaria, Jabalpur

...Respondents

(By advocate Shri K.N.Pethia)

O R D E R

By Madan Mohan, Judicial Member

By filing this OA, the applicant seeks the following
reliefs:

- (i) Set aside the revised finding and the punishment order dated 3.9.2001 and dated 29.10.2001 (A-6 and A1 respectively.
- (ii) Command the respondents to provide all consequential benefits to the applicant as if the impugned disciplinary proceedings are never initiated against him. Accordingly, period under suspension be directed to be treated as a period spent on duty for all practical purposes.
- (iii) Command the respondents to release the annual increments due to the applicant for the years 1999, 2000 and 2001 with interest on delayed payment in consonance with the judgement of Apex Court reported in 1994 (2) SCC 240(G)
- (iv) Set aside the appellate order dated 9.5.2003 (A14).



2. The brief facts of the case are as follows :
The applicant is presently working on the post of LDC. He was served with a charge sheet dated 24.6.2000 under Rule 14 of CCS (CCA) Rules, 1965 (Annexure A-2). The applicant filed a reply and denied the charges in toto. An enquiry officer was appointed by the respondents who submitted his enquiry report in which no charge was proved against the applicant. But the disciplinary authority has given a dissenting note Annexure A-6 dated 3.9.2001. But no reason is assigned for proving the charges against the applicant in the dissenting note. Only inferences were drawn by the disciplinary authority. In the dissenting note it is clearly mentioned that at the relevant point of time, applicant was not present while money was received. He was merely present at the time of refund of money. Hence, this is a case of no evidence. The person involved in the matter may be one R.K. Mishra and one J.K. Kureel and further argued that in the punishment order dated 29.10.2001 (Annexure A-1) the disciplinary authority has mentioned that the applicant has not been able to bring out any convincing evidence to disprove his guilt while the burden of proving the charge lies on the respondents and they cannot shift the responsibility and liability to the applicant to disprove his guilt. Hence, the impugned orders are liable to be quashed. The applicant preferred an appeal against the order of the disciplinary authority, which was dismissed by order dated 9.5.2003. This order is also non speaking order.

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

4. It is argued on behalf of the applicant that no



charge was proved against the applicant by the enquiry officer. But the disciplinary authority without giving any cogent reasons has given dissenting note merely on the ground of inferences drawn by him which is not sufficient to justify the dissenting note. This is a case of no evidence. The applicant further argued that the disciplinary authority has mentioned in the impugned punishment order that the applicant has not been able to bring out any convincing evidence to disprove his guilt. This finding is against the procedure and law because the burden of proving the charge lies on the respondents and they cannot shift the responsibility and liability to the applicant to disprove his guilt. The appellate authority also rejected the appeal without giving any reasons. Hence, this OA deserves to be allowed.

5. In reply it is argued that in the dissenting note the witnesses have said that they had usually gone to Mr. Soni, which is the surname of the applicant and he said that 'you come' and he is coming, and on the question as to why Mishraji has met Soniji, the answer is "to receive money". Hence, the dissenting note of the disciplinary authority is not groundless. This is not a case of criminal trial in which clinching evidence is required to prove guilt and convict the accused. This is a case of departmental enquiry. No strict proof is legally required. This is not a case of no evidence. The orders passed by the authorities concerned are perfectly in accordance with law. Hence, this OA deserves to be dismissed.

6. After hearing the learned counsel for both the parties and carefully perusing the records, we find that though the enquiry officer has submitted his report exonerating the applicant from the charges levelled



against him, as the charges were not proved against him but the disciplinary authority has given a dissenting note which is marked as Annexure A-6 dated 3.9.2001, in which all facts and circumstances are mentioned in detail giving reasons. On a perusal of the dissenting note of the disciplinary authority it is seen that the charges against the applicant are proved, though not strictly, but this dissenting note cannot be discarded being baseless or groundless. This is not a criminal trial in which strict proof is required. This is also not a case of no evidence. 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. We have perused both the orders of the disciplinary authority and the appellate authority which are speaking orders. Hence, the OA is liable to be dismissed as having no merits. Accordingly, the same is dismissed. No costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

aa.

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

पतित्तिपि अन्ने पित्तः—

(1) सचिव, उच्च न्यायालय, दारुवाड़ा जिल्ला, जबलपुर

(2) आवेदक श्री/श्री. ३/७ के कारिसल

(3) प्रतनी श्री/श्रीमती/पु..... के काउंसल

~~(2)~~ સાચા પંચોત, જાણે બધાનો

सूचना एवं आवश्यक वर्ग्यवाही हेतु

उप रजिस्ट्रार

Issued
on 7-10-07
BS

S. Paul
KN Pethia