

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

OA No.604/02

(Bilaspur, this the 9th day of Sept., 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, C/o Shri Suresh Agrawal
620 Upraitinganj
Jabalpur

...Applicant

(By advocate Shri Sujoy Paul)

Versus

1. Union of India through
its Secretary
Minstry 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 (oral)

By Madan Mohan, Judicial Member

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

(i) Summon the entire relevant records including the DE record for perusal.

(ii) Set aside the punishment order dated 30.5.2000 (Annexure A1) and the appellate order dated 12.3.2001 (Annexure A2).

(iii) Command the respondents to provide all consequential benefits to the applicant as if the impugned orders are never passed.

in alternatively

(iv) Command the respondents to release the annual increments due to the applicant for the years 1999, 2000.

2. The brief facts of the case are that the applicant was initially appointed on 19.12.1980 as LDC. He was shocked to receive a chargesheet under Rule 14 of the CCS (CCA) Rules, 1965 on 17.4.99 (Annexure A4). Since the charges against the applicant were false and frivolous, he denied the same by filing reply dated 29.4.99 (Annexure A5). The applicant was placed under suspension and an

enquiry officer was appointed on 2.8.99. one R.P.Pandey was found to have misused the facility of LTC and was placed under suspension. To save his own skin, he falsely implicated the applicant and on the strength of his letter dated 11.1.99, the applicant was chargesheeted. The enquiry officer submitted his report which was supplied to the applicant on 13.5.2000. Copy of the enquiry report is marked as Annexure A7. A perusal of the inquiry report would show that the inquiry officer has categorically found that there is no proof against the applicant for taking money from prosecution witness etc.

~~✓ to the prosecution witnesses or for managing everything~~
~~✓ for filing settlement of the issue.~~ The allegations which were made in the charge-sheet were not found to be proved. However, the inquiry officer in the second portion held that the applicant was dealing clerk in Establishment and he could not give any satisfactory reply on interrogation how he had filled up the final claim form of LTC of the prosecution witnesses. Inquiry authority or the disciplinary authority has no jurisdiction and competence to travel beyond the scope of the charge mentioned in the charge memo. The inquiry officer expressed a doubt on the basis of which the applicant was found to be guilty whereas while discussing the proof he exonerated the applicant. Thus doubt prevailed over proof as per his report. The applicant submitted his representation to the I.O.'s report on 18.3.2000 (Annexure A8). The said representation was not considered and without assigning any reason punishment order dated 30.5.2000 is passed by the disciplinary authority thereby a punishment of reduction in pay by three stages from Rs.4270/- to Rs.4030 per month in the pay scale of Rs.3050-4590 for a period of two years with cumulative effect is inflicted on the applicant, which ~~is~~ is a major punishment. The applicant preferred an appeal which was rejected . Hence this OA is filed.

Heard the learned counsel for both parties. It is argued on behalf of the applicant that due opportunity of hearing was not given to the applicant. Relevant documents were not shown to him and the charge against the applicant was not proved at all as is clear from the report of the enquiry officer in which it is mentioned that "this leads to create a doubt that on the advice of accused, the PW has changed his LTC from Home Town to 4 years LTC for Guwahati". It created a doubt. A doubt or suspicion cannot take place without proof. It is settled law. Hence the charges against the applicant are not proved. It was the duty of the respondents to prove the charges against the applicant beyond doubt, and the I.O. cannot travel beyond his jurisdiction and cannot see evidence beyond the charge memo. The orders passed by the disciplinary authority and the appellate authority are not speaking orders. Hence the OA deserves to be allowed and the impugned orders passed by the respondents are liable to be quashed and set aside.

3. In reply, learned counsel for the respondents argued that this is not a criminal trial in which the accused can only be punished on the basis of clinching evidence and conclusive proof. This is a case of departmental enquiry proceedings. The I.O.'s report shows that the applicant has filled the final claim form of LTC and given to PW for which the accused could not give any satisfactory reply and further mentioned that this leads to create a doubt that on the advice of accused the PW has changed his LTC from Home Town to 4 years LTC for Guwahati and this becomes a circumstantial proof that the PW was misguided by accused by taking

QF

advantage of working in Establishment and accused has taken money for giving false tickets and doing all over works. This amounts to unbecoming of a Govt. servant. Hence the charges are proved. Due opportunity of hearing was given to the applicant. Relevant documents were shown to him and the orders passed by the disciplinary authority and the appellate authority are speaking orders and another person R.P. Pandey is also punished. No irregularity or illegality was committed by the respondents in conducting departmental enquiry proceedings and in passing the impugned orders by the respondents.

4. After hearing the counsel for both parties and careful perusal of the records, we find that due opportunity of hearing was given to the applicant. He filed a representation against the charge sheet and also filed an appeal against the order passed by the disciplinary authority. Hence it cannot be said that no opportunity was given to him. The report of the enquiry officer shows that the charges against the applicant are proved. The charges are said to be proved on the basis of a doubt as argued on behalf of the applicant but after perusal of the whole report of the inquiry officer it is clear that the inquiry officer has come to the conclusion after going through the evidence and the records that the charges are proved and he has mentioned in his report that it was found that the applicant has filled the final claim form of LTC and given to PW for which the accused could not give any satisfactory reply also and has further mentioned that he misguided the PW also. Why the applicant filled the final claim form of LTC, he could not explain. This is not a criminal trial. Hence in the case of departmental proceedings, we have to see cogent evidence on the basis of which the charges are proved, which are available on record. Hence this is not a case of no evidence and the Tribunal cannot reappraise the evidence. Another

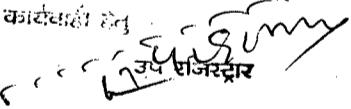
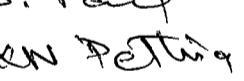
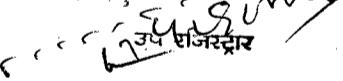
person R.K.Paney is also punished by the respondents. Applicant was shown the relevant documents. The inquiry officer/Disciplinary Authority has not travelled beyond their jurisdiction and legal powers about the charges levelled against the applicant and we have perused the orders passed by the disciplinary authority dated 30.5.2000 (Annexure A1) and by the appellate authority dated 12.3.01 (Annexure A2). Both these orders are speaking orders having cogent reasons and justification.

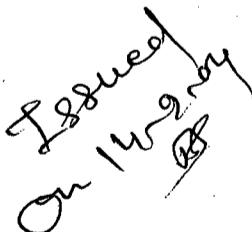
5. After considering all the facts and circumstances of the case, we are of the view that this OA deserves to be dismissed. Hence the OA is dismissed. ~~No Costs.~~


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman

aa.

प्रधानकान से ओ/न्या.....जललपुर, दि.....
प्रतिलिपि अवृंहि:-
(1) सचिव, उच्च ब्यायालय बार प्रमोटिप्राल, जललपुर
(2) आकेदक श्री/श्रीमा. नी/न्दु.....को काउंसल S. Panj
(3) प्रत्यर्थी, श्री/श्रीमती/न्दु.....को काउंसल
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