

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
(CAMP OFFICE AT INDORE)

Original Application No. 606/2001

Jabalpur, this the 14th day of June 2004

Hon'ble Shri M.P. Singh - Vice Chairman
Hon'ble Shri Madan Mohan - Member (J)

Vijayrao Gangudle s/o Laxmanrao Gangudle,
aged 53 years, Senior Machine Assistant,
Bank Note Press, Dewas,
R/o 49-A, Adarsh Nagar, BNP Road,
Dewas.

...Applicant

(By Advocate:- Shri D.M. Kulkarni)

-versus-

1. Union of India through
Finance Secretary,
Ministry of Finance,
South Block,
(Bank Note Press Branch),
New Delhi.
2. General Manager,
Bank Note Press,
Dewas.
3. Dy. General Manager,
Bank Note Press,
Dewas.

...Respondents

(By Advocate: Shri V. Saran)

O R D E R

By Madan Mohan, Member (J):

By filing this original application, the applicant has sought the following main reliefs:

8.1 The impugned orders of punishment Annexure-A-1 rejection of appeal, Annexure-A-2 and order of suspension be declared illegal and be quashed.

8.2 The respondents be directed to pay arrears of salary and it be also declared that the applicant is entitled to get full salary for his suspension period. The applicant be also awarded all consequential benefits including promotion, seniority, back wages with interest at current market rate.

8.3 The respondents be directed to promoted the applicant to the post of Junior Machine Operator since his immediate junior has been promoted with all benefits of salary and seniority".

2. The brief facts of the case are that the applicant joined Bank Note Press on 17.11.73 as Attendant-printing.

He got promotions on the posts of Binding and printing Assistant, Junior Machine Assistant and presently Sr. Machine Assistant. He worked sincerely and diligently with clean record of service but, his promotion to the post of Jr. Operator has been denied because of unwarranted and biased punishment awarded to him by the impugned orders. The incident relating to the charge sheet is of 21.2.1999. The respondent No. 3 issued charge sheet on the allegation that while Munnalal Verma was standing near the time recording clock, after punching his card the applicant abused, slapped, kicked and man handled him. The applicant was put under suspension. The applicant in reply to the charge sheet contended that he has been wrongly charged. In fact he was assualted by Munnalal who was intoxicated and after this the applicant has submitted a compliant to the respondents No.2 at his bungalow ^{also} immediately after the incident. He has/ filed another application on 23.2.1999 to the respondents fearing danger to his life. The enquiry officer did not take the applicant's statement nor he was generally examined. The applicant was not asked to produce the defence witness. Alongwith his brief, he had submitted his complaints made to respondents No.2 regarding the alleged incident and the threats given to him by Munnalal Verma. ^{that} He had contended therein/ Ram Ashre was not present at the time of alleged incident which fact is corroborated by PW Lakshman Singh Baghel. The enquiry officer after conducting the enquiry submitted his report/finding that the applicant is guilty/ ^{of the} alleged misconduct. The respondent No. 3 vide order dated 31.8.2000 issued show cause to the applicant. The applicant has submitted his reply to the show cause on 26.9.2000. The respondent No.2 vide impugned order Annexure-A-1 dated 28.10.2000 imposed

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has committed an apparent error on their part. The learned counsel for the applicant further argued that relevant documents were not furnished to the applicant and also no proper opportunity of hearing was given to him. The impugned orders are non-speaking orders.

5. The learned counsel for the respondents has argued that the aforesaid arguments of the applicant that the departmental proceedings were initiated against both the employees which must have been conducted by the respondents jointly is legally not correct because in CCS (CCA) Rules, it is the discretion of the authorities concerned to conduct the joint enquiry. This is not a criminal trial. Hence no illegality or irregularity has been committed by the respondents in conducting the enquiry. The learned counsel for the respondents further argued that the charges are established against the applicant and this is not a case of 'no evidence'. The applicant was given opportunity of hearing and also argued that to create an unpleasant atmosphere by the employees while discharging their duties adversely effect the smooth functioning of the office of the respondents. The respondents have taken a lenient view while passing the said impugned punishment on the applicant. There is no irregularity or illegality in the alleged impugned orders.

6. We have given careful consideration to the rival contentions made on behalf of the parties and we find that the arguments raised by the applicant about joint trial relates to criminal proceedings or criminal trial. Though there is provision under CCS (CCA) Rules, 1965 for common enquiry but according to Rule 18 of the Rules ibid the word 'may' is used by the legislature which is not mandatory and it is the discretion of the authorities concerned to conduct the enquiry jointly or separately. If the departmental proceedings against two employees are conducted separately, there is no irregularity or illegality in this regard as this is not the criminal trial. It is not a case of 'no evidence'. The applicant was given due opportunity of

punishment of reduction in pay by four increments from Rs. 4900/- to Rs. 4500/- from 1.11.2000 for a period of 3 years with cumulative effect and stoppage of increments during the period of penalty. The suspension period was also directed to be treated as *dies-non*. The applicant has submitted his appeal to the respondent on 28.11.2000 and the respondent No.2 vide order dated 19.6.2001 rejected his appeal without considering the facts that the alleged incident occurred because of the aggressive role played by Munnalal. Therefore, the applicant is entitled for the reliefs prayed for.

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

4. The learned counsel for the applicant has argued that the alleged incident by both the parties was on the same date, same time and same place. The version of both the parties are against each other. The applicant says that Munnalal was aggressor and he provoked the applicant while the applicant submitted that he complained immediately after the said incident. First the applicant submitted a complaint immediately to the respondent No.2 at his bungalow after the said incident (Annexure-A-6). But, Munnalal was given protection by Shri Das incharge of the night shift that the incident was a conspiracy hatched by Munnalal and Ram Asre against him. The applicant has also filed another application on 23.2.99(Annexure-A-7) to the respondent No. 3. He has further argued that according to the Hon'ble Supreme Court it is settled proposition of law that in case of cross version of both the parties trial should be conducted by one court and it should not be decided separately while in this case the enquiry was conducted separately against the applicant and Shri Munnalal and the respondents is not conducting the enquiry jointly &

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hearing and copies of relevant documents were also furnished to him. The charges against the applicant were well established and proved by cogent evidence. Hence the contention of the applicant's counsel that this is a case of 'no evidence' is not sustainable and the same is rejected. The alleged incident committed by the applicant creates adverse atmosphere in the smooth functioning of the respondents' office. It is settled legal position 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. Accordingly, we find that proper and due opportunity of hearing was given to the applicant and the impugned orders are passed with reasons.

7. Hence, the original application has no merit and is accordingly dismissed. No costs.

(Madan Mohan)
Member (J)

(M.P.Singh)
Vice Chairman

"S.A."

पृष्ठांकन सं. ओ/व्या..... जवलपुर, दि.....
पलितिष्ठि अबोधितः—

- (1) संस्थान, उच्च उद्यायालय वार्ष प्रसोलिंगुडा, जगलपुर
- (2) आवेदक श्री/श्रीमती/कु. के कानूनस्थ
- (3) प्रत्यार्थी श्री/श्रीमती/कु. के कानूनस्थ
- (4) विद्यार्थी, छो.प्र.अ., जगलपुर एवं रसीठ

• D M Kettman
U. Saray

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