

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 707 of 2001

Jabalpur, this the 11th day of March, 2004

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

Madan Lal Vishwakarma,  
S/o. Sri Cheedami Lal Vishwakarma,  
aged about 45 years, Ex T.No. 17  
QA(MAT)/60555, R/o. Gr. No. 603,  
West Ghampur, Jabalpur (M.P.).

... Applicant

(By Advocate - Shri Sudarshan Chakravarty)

V e r s u s

1. Union of India,  
Through the Secretary,  
Ministry of Defence,  
New Delhi.

2. Chairman/DGOF,  
Ordnance Factory Board,  
10-A, Saheed K. Bose Road,  
Calcutta - 700001.

3. General Manager,  
Ordnance Factory Khamaria,  
Jabalpur (M.P.).

... Respondents

(By Advocate - Shri S.A. Dharmadhikari)

O R D E R (Oral)

By M.P. Singh, Vice Chairman -

By filing this Original Application the applicant has  
main  
claimed the following reliefs :

"(i) to quash the punishment order Annexure A-6 and  
the order passed in Appeal Annexure A-8 passed by  
Respondent No. 3 and 2 respectively; acquitting the  
applicant from the charge leveled;

(ii) to direct the respondents to reinstate the  
applicant in service with all consequential benefits;  
including arrears of salary and other allowances."

2. The brief facts of the case are that the applicant was  
working under the respondent No. 3. While working as such  
the applicant was issued a charge sheet. The following  
charge was levelled against him :

"Article-1.

That the said Shri Madan Lal Vishwakarma, T.No.QA(M)/17 while functioning as worker during the period from 01.6.98 is alleged to have committed gross misconduct viz; found under influence of alcohol, at Gate No. 7."

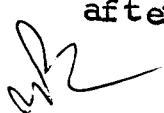
An enquiry officer has been appointed to investigate into the charges. The enquiry officer concluded the enquiry and the charge had been proved. The findings of the enquiry officer has been sent to the applicant to submit his representation vide memo/~~memorandum~~ dated 4.10.2000.

The disciplinary authority after taking into consideration the representation of the applicant and the finding of the enquiry officer and the relevant material available on record has imposed the penalty of compulsory retirement on the applicant vide order dated 13th November, 2000. The applicant has submitted an appeal against the order of the disciplinary authority. The appellate authority vide its order dated 19th April, 2001 has rejected the appeal of the applicant. Aggrieved by this the applicant has filed this Original Application claiming the aforesaid reliefs.

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

4. During the course of the argument the learned counsel for the applicant has submitted that the applicant was not found intoxicated under the ambit of medical jurisprudence as he was not on duty on that date. He has only gone to the office to collect the keys from one of his colleague, who was on duty at that particular point of time.

5. On the other hand, the learned counsel for the respondents states that the principle of medical jurisprudence is not applicable in this case. The applicant was found intoxicated after medical examination and as per Rule 22 of CCS Conduct



Rules even if the person is found intoxicated in public place  
he has ~~committed~~ <sup>conducted</sup> misconduct and can be proceeded under the  
conduct rules. He has also stated that the applicant is a  
habitual drinker. He was ~~found~~ <sup>also</sup> found and punished earlier on six  
occasions.

6. We have given careful consideration to the rival contentions made on behalf of the parties. We find that as per the medical report given by the medical officer the applicant was found intoxicated, although the applicant at that point of time was not on duty. In this case the enquiry has been held against the applicant and the charges have been proved and the applicant has been given an opportunity of hearing and thus the principles of natural justice have been followed in this case. It is a settled legal position by the Hon'ble Supreme Court in the case of Union of India and another Vs. B.C. Chaturvedi, (1995) 6 SCC 749 that the Court/Tribunal cannot reappreciate the evidence and substitute its own findings and also cannot go into the quantum of punishment unless it shocks the conscious of the Court/Tribunal. In this case we are of the considered opinion that the penalty imposed on the applicant is too harsh.

7. Accordingly, we quash the order passed by the disciplinary authority dated 13th November, 2000 and also the appellate authority dated 19th April, 2001, Annexure A-6 and Annexure A-8 respectively, and remit the case to the disciplinary authority to impose any other penalty other than compulsory retirement, within a period of three months from the date of receipt of copy of this order.

8. In the result the Original Application is allowed. No costs. 