

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 752 of 2002

Jabalpur, this the 14th day of July, 2004

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

A.P. Tiwari
S/o Late Ganga Prasad Tiwari
Office Supdt.(P.C.No.40) Personnel
No.701634) Engineering Office,
Gun Carriage Factory,
Jabalpur R/o Q.No.377/2, Type-II
Panehra Line, G.C.F. Estate
Jabalpur.

APPLICANT

(By Advocate - Shri S.P. Tripathi)

VERSUS

1. Union of India
Through Secretary
Ministry of Defence,
New Delhi.
2. Chairman/D.G.O.F.
Ordnance Factory Board,
Kolkata.
3. General Manager,
Gun Carriage Factory,
Jabalpur.

RESPONDENTS

(By Advocate - Shri S.Akhtar on behalf of Shri B.da.Silva)

O R D E R (ORAL)

By Madan Mohan, Judicial Member -

By filing this OA, the applicant has sought the following main relief :-

" (1) That impugned order dt.4.2.98
Annexure A-1 and letter dt. 24.4.2002
Annexure A-4 be quashed and applicant be freed
from any stigma and all consequential reliefs also
be granted to applicant".

2. The brief facts of the OA are as follows:

The applicant is posted as office Superintendent in Gun Carriage Factory, Jabalpur. Respondent No.3 served a memo of charge dated 29.3.97 (Annexure A-2) on the applicant alleging that the applicant was engaged in the activity of



recovery of loan given by his wife Radha Bai to Jagdamba Prasad and V.Harsole in Factory premises and he did not give information to G.C.F. Management regarding Sahukari business of his wife. Applicant submitted reply dated 9.4.97 (Annexure A-3) denying all the charges clearly stating that the applicant ~~was~~ never engaged in the activities of recovery of loan and his wife had no Sahukari business. Applicant also clearly stated that there is ^{no} loan transaction of any kind. Applicant further stated that a loan of Rs.2200 was given to B.Harsole on his demand by the applicant's wife without interest and giving loan to anybody is not an offence. Vide impugned order dated 4.2.98 (A-1), penalty of reduction of pay from Rs.5600/- to Rs.5450 was imposed on the applicant for one year without cumulative effect. The applicant submitted an appeal dated 14.3.2002 but it was returned vide letter dated 24.4.2002 (Annexure A-4).

3. Heard the learned counsel for both parties. It was argued on behalf of the applicant that the applicant was never engaged in recovery of loan activities nor his wife was doing any Sahukari business. The charge against the applicant was not proved. No enquiry was made and the appellate authority returned his appeal without passing any speaking order.

4. In reply, the learned counsel for the respondents argued that due opportunity of hearing was given to the applicant. The applicant preferred an appeal but as the appeal was time barred, it was not considered by the appellate authority and hence was returned. No irregularity or illegality has been committed by the respondents while passing the impugned order.



5. After hearing the learned counsel for both sides and carefully perusing the records, we find that the applicant was given due opportunity of hearing. This is not a case of no evidence and the Tribunal cannot reappraise the evidence and in case of minor penalty no detailed enquiry is required and the order passed by the disciplinary authority is speaking and a detailed one but the appellate authority has not considered the appeal submitted by the applicant on the ground of limitation.

6. Considering all the facts and circumstances of the case, we are of the opinion that the impugned order passed by the appellate authority (Annexure A5 dated 24.4.2002) is not in accordance with law and accordingly the order is quashed and set aside. The OA is partly allowed and the case is remitted back to the appellate authority (Respondent No.2) to consider the appeal, filed by the applicant in A-4 dated 14.3.2002. It is made clear that the ground of limitation will not be taken by the appellate authority while considering the appeal. The appellate authority is directed to pass a detailed and reasoned order on the appeal within a period of ~~three~~ ^{one} month ^{from the date of the receipt of the order.} from the date of the receipt of the order.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

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पृष्ठकन सं ओ/न्या..... जयलपुर, दि.....
चु रिनिधि अरु रिनिधि:-

- (1) सचिव, उच्च न्यायालय एवं एडिजी, जयलपुर
 - (2) आवेदन श्री/श्रीमती/कु..... के काउंसल SP Tripathi
 - (3) प्रत्यर्थी श्री/श्रीमती/कु..... के काउंसल B. dandia
 - (4) अध्यक्ष, के.प्र.अ., जयलपुर न्यायाधीश
- सूचना एवं आवश्यक कार्यवाही हेतु 10-8-04

Issued
On 10-8-04
BS