

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 753 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

Gulam Hasnain,
Sr. Store Keeper,
P.No.6959323,
S/o Shri Moobarak Hussain,
Date of birth 10.9.1949,
R/o 2392, Sharfe Bag,
Anand Nagar, Adhartal,
Jabalpur(M.P)

APPLICANT

(By Advocate - Shri V. Tripathi on behalf of
Shri S. Paul)

VERSUS

1. Union of India,
Through its Secretary,
Ministry of Defence,
New Delhi.
2. The Director General.
Ordnance Services,
NGO's Branch, Army
H.Q DHQ, P.O.
New Delhi.
3. Office-In-Charge AOC
AOC Records, PO-3,
Trimool Gheri,
Trimool Gheri,
Sikundrabad(A.P)
4. Administrative Officer.
Central Ordnance Depot
Post Box No.20.
Jabalpur(M.P.)

RESPONDENTS

(By Advocate - Shri S.A. Dharmadhikari)

O R D E R (oral)

By Madan Mohan, Judicial Member -

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

"(b) Set aside the Charge-sheet Annexure A/2
punishment order dated 14.8.2001 Annexure A/1
and also the appellate order dated 1.8.2002
Annexure A/9.

(c) Consequently, command the respondents to
provide all consequential benefits to the applicant
as if the impugned disciplinary proceedings and the
punishment order are never inflicted against the
applicant".

2. The brief facts of the case are that the applicant was initially appointed on 23.7.1974 on the post of Store Keeper. He was served with a charge sheet under Rule 16 of the CCA Rules on 29.1.2001. Annexure A-2. The applicant filed his reply dated 12.2.01 (Annexure A3) and denied the charges in toto. It cannot be expected that an employee can furnish an effective defence due to afflux of time more than 10 years. The belated initiation of the disciplinary proceedings are ~~deprecated~~ by various courts. By memo dated 12.6.2001 (Annexure A4), the respondent No.4 imposed on the applicant the penalty of reduction of pay by two stages from Rs.5450 to 5150 in the pay scale of Rs.5000-5000 for a period of three years with further direction that the applicant will not earn any increment on pay during the period of such reduction and that such reduction will not have the effect of postponing future increments of his pay on expiry of the period for which the penalty is awarded. The applicant preferred his representation dated 25.6.01 (Annexure A5) and denied the charges. Respondent No.4 is empowered to inflict a minor punishment as mentioned in Rule 11 (i to iv). The punishment which is inflicted on the applicant is a major punishment. The applicant preferred an appeal which was rejected by order dated 1.8.02 (Annexure A-9). Hence this OA is filed.

3. Heard the learned counsel for both parties. It is argued on behalf of the applicant that the charge sheet was issued against the applicant for a minor penalty while the respondents have imposed a major penalty which is apparently illegal. It is further argued that the applicant will not earn any increment on pay during the period of reduction and the reduction will not have the effect of postponing future increments of his pay on expiry of the period for which the penalty is awarded. The applicant preferred a representation against the penalty and he denied the charges.

Respondent No.4 is empowered to inflict a minor penalty as mentioned in Rule 11 (i to iv). The punishment which is inflicted on the applicant is a major one. The incident relates to the year 1991 while the charge sheet is given after about 10 years in 2001. Our attention is drawn towards the ruling of the Hon'ble Supreme Court reported in 1991 (16) ATC 514 and further argued that major penalty cannot be imposed by Lt.Governor. It can be imposed by an officer not below the rank of Brigadier. In that case the impugned order imposing major penalty was passed by Lt.Governor which itself is beyond his jurisdiction.

4. In reply, learned counsel for the respondents argued that the penalty awarded is minor one, as per the provision laid down in Rule 11(iii) and hence the order passed by the competent authority is within his jurisdiction and legal. So far as the delay in issuing the charge sheet is concerned, it is due to the procedural formalities. A thorough inquiry was conducted in the matter to ascertain the whole facts and there were so many other procedural steps which were to be complied with by the respondents and the applicant cannot take the benefit of the alleged delay in issuing the charge sheet against him. Hence no irregularity or illegality was committed by the respondents..

5. After hearing the learned counsel for the parties and carefully perusing the records, we find that the impugned order dated 14.8.01 passed by the disciplinary authority Annexure A1 is not about a minor penalty. It is covered under Rule 11 (v) and clearly it is an order of major penalty. While the charge sheet was issued for minor penalty, a major penalty should not and could not have been awarded to the applicant.



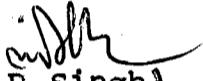
6. We have perused the ruling cited by the applicant's counsel regarding the inordinate delay in filing the charge sheet also.

7. Considering all the facts and circumstances, we are of the opinion that the OA deserves to be allowed.

Hence the OA is allowed and the impugned order dated 14.8.2001 (Annexure A1) passed by the disciplinary authority and the order dated 1.8.2002 passed by the appellate authority are quashed and set aside.

We direct the respondents to give consequential benefits to the applicant.


(Madan Mohan)
Judicial Member

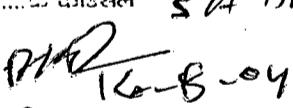

(M.P. Singh)
Vice Chairman

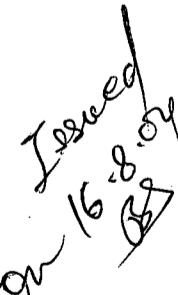
aa.

पृष्ठांश्वर सं. ओ/न्या.....जवलपुर, दि.....
परिलिपि अच्छे छित:-

- (1) गवर्नर, उच्च अदायकाय लाइ एक्सेसिल, जवलपुर
- (2) आवेदन ए/प्रिया/कु.....दे चाहेसल
- (3) उपायी ए/प्रिया/कु.....दे चाहेसल
- (4) गवर्नर, ए/प्रिया/कु.....
सूचका पुस्तकालय लाइ एक्सेसिल


S. Paul
S.A. Dharmadhikari


K. K. B. - 04
मुख्य सचिवालय


G. S. B. - 04
गवर्नर
16/8/07