

CENTRAL ADMINISTRATIVE TRIBUNAL  
JABALPUR BENCH

OA No. 84/01

Bilaspur, this the 16<sup>th</sup> day of March, 2005

C O R A M

Hon'ble Mr.M.P.Singh, Vice Chairman

Hon'ble Mr.Madan Mohan, Judicial Member

1. Smt Pooja Jaggi  
W/o Late Ramesh Kumar Jaggi  
Lower Division Teacher in  
Tagore Vidhya Niketan  
Gadarwara  
Dist.Narsinghpur (MP)
2. Amit Kumar Jaggi  
S/o Late Ramesh Kumar Jaggi
3. Sweta Jaggi alias Sweeti Jaggi  
D/o Late Ramesh Kumar Jaggi
4. Smriti Jaggi  
D/o Late Ramesh Kumar Jaggi
5. Ranjana Jaggi  
D/o Late Ramesh Kumar Jaggi

Applicants

(By advocate Shri A.S.Raizada)

Versus

1. Union of India through  
Secretary  
Ministry of Defence  
New Delhi.
2. Director General/Chairman  
Ordnance Factory Board  
10A,Shaheed Khudi Ram Bose Road  
Calcutta.
3. General Manager  
Ordnance Factory Khamaria  
Jabalpur.

Respondents.



(By advocate Shri S.P.Singh)

### ORDER

By Madan Mohan, Judicial Member

By filing this OA, the applicants have claimed the following main reliefs:

- (i) To quash the compulsory retirement order dated 8.5.2000.
- (ii) To direct the respondents to decide his appeal by a speaking order.

2. The brief facts of the case are that Ramesh Kumar Jaggi, the husband of applicant No.1 was given compassionate appointment as Labour 'B' and he joined on 12.7.90. A report was lodged in the police by one Panchamlal who was a Darban and a case was registered against him for offences under sections 353,506,294/34 of I.P.C. Thereafter Ramesh Kumar Jaggi was placed under suspension vide order dated 21.10.93. In the enquiry, no charges were proved against Ramesh Kumar Jaggi. Thereafter, the General Manager directed for a fresh inquiry. Copy of the memo of charge sheet issued subsequently is marked as Annexure A1. Ramesh Kumar Jaggi submitted his reply to the charge sheet (Annexure A2) and he also sent another letter with regard to the issuance of the memo of charge sheet (Annexure A3). Thereafter, a fresh enquiry was done and the original complainant did not turn up to depose before the inquiry officer. In the second enquiry, one Panchamlal, Durban, deposed (Annexure A4). Thereafter, he was served with another memo dated 18.3.2000 along with the finding of the inquiry officer (Annexure A5) which was received by him on 23.3.2000 and on the very next day he was asked verbally to go with the team which was sent for repairing the defective bombs. Ramesh Kumar Jaggi and some other employees expressed their inability to go at such a short interval. Then another team was sent for the said purpose and in the second batch, Ramesh Kumar Jaggi was sent. In compliance with the movement order, he went to Pulgaon and returned on 21.4.2000 and he joined duties on 22.4.2000. In



the meantime, the time mentioned in the memo dated 18.3.2000 had expired. Thereafter vide order dated 8.5.2000 the penalty of compulsory retirement was imposed upon Ramesh Kumar Jaggi (Annexure A7). Being aggrieved by the said order, Ramesh Kumar Jaggi filed an appeal (Annexure A8). In spite of the lapse of so many months, the appeal has not been considered by the appellate authority. Hence this OA is filed. Ramesh Kumar Jaggi died on 30<sup>th</sup> July 2004 after the filing of the OA. Hence his legal heirs are impleaded as applicants in this OA.

3. Heard the learned counsel for both parties. It is argued on behalf of the applicants that on the basis of an FIR lodged in police station under Sections 353, 506, 294/34 of I.P.C., deceased Ramesh Kumar Jaggi was placed under suspension vide order dated 21.10.93. The enquiry officer had submitted his report exonerating him from all the charges. However, the General Manager again directed for a fresh inquiry and a memo of charges was issued subsequently. The deceased had represented for canceling the order of suspension. Thereafter a fresh inquiry was conducted and he was served with another memorandum dated 18.3.2000 along with the finding of the inquiry officer. Thereafter, vide impugned order dated 8.5.2000, the penalty of compulsory retirement was imposed on the deceased Ramesh Kumar Jaggi. Hence the respondents have issued two charge sheets against late Ramesh Kumar Jaggi on the basis of same facts, which is illegal and not permissible at all. Learned counsel of the applicants has drawn our attention towards AIR 1971 SC 1447 to support the aforesaid arguments. Hence the whole action of the respondents is apparently is done against the mandatory rules and procedure and law.

4. In reply, the learned counsel for the respondents argued that the respondents initiated the departmental enquiry proceedings against late Ramesh Kumar Jaggi and issued a charge sheet under Rule 14 of the CCS (CCA) Rules, 1965 vide memo dated 6.6.94. All the relevant documents were supplied to the delinquent and afforded him an opportunity to submit representation. The enquiry was conducted as per CCS (CCA) Rules. On



scrutiny of the case it was observed that inadvertently certain evidences were not taken on records before issuing the chargesheet. Hence it was decided to withdraw the charge sheet without prejudice to the right of the disciplinary authority to issue a fresh charge sheet. According order dated 28.2.96 was passed and fresh charge sheet dated 27.8.96 was issued, which is mentioned in Annexure A1. Late Ramesh Kumar Jaggi did not submit any reply to the charge sheet and a court of enquiry was constituted vide order dated 27.12.97 and the enquiry officer submitted his report to the disciplinary authority. After receiving the copy of the enquiry report, the disciplinary authority forwarded the copy of the enquiry report to the delinquent employee and afforded him the opportunity to submit his representation if any. He did not submit any representation and then the disciplinary authority acted upon the enquiry report and after due consideration of the finding of the enquiry report held the employee guilty of the charge and misconduct and imposed the penalty of compulsory retirement from service w.e.f. 8.5.2000 (Annexure A7). Hence the action of the respondents is perfectly legal and justified. The respondents have neither committed any irregularity nor illegality in their action.

5. After hearing the learned counsel for both parties and a careful perusal of the records, we find that according to the arguments advanced on behalf of the respondents, a charge sheet was issued Ramesh Kumar Jaggi under Rule 14 of the CCS(CCA) Rules, 1965 vide memo dated 6.6.94., which is annexed as Annexure R1.. But it was observed by the respondents that inadvertently, certain evidences were not taken on record before issuing the charge sheet. Hence it was decided to drop the charges and issued a fresh charge sheet. Accordingly, vide order dated 28.2.96, a fresh charge sheet dated 27.8.96 (Annexure A1) was issued against the delinquent employee and after following the procedure, the penalty of compulsory retirement was imposed on him vide order dated 8.5.2000 (Annexure A7). Hence the respondents have issued two charge sheets on the basis of same facts. We have perused AIR <sup>219710</sup> ~~1997~~ SC 1447 – K.R. Deb

Vs. The Collector of Central Excise, Shillong – decided on 7.4.1971<sup>a</sup> in which the Hon'ble Supreme Court has held that "Civil Services – Central Civil Services (Classification, Control and Appeal) Rules (1957), Rule 15 – Rule 15 does not contemplate successive inquiries – If there is some defect in the inquiry conducted by the Inquiry Officer, the Disciplinary Authority can direct the inquiry officer to conduct further inquiries in respect of that matter but it cannot direct a fresh inquiry to be conducted by some other officer."

"It seems to us that Rule 15, on the face of it, really provides for one inquiry but it may be possible if in a particular case there has been no proper enquiry because some serious defect has crept into the inquiry or some important witnesses were not available at the time of the inquiry or were not examined for some other reason, the Disciplinary Authority may ask the inquiry officer to record further evidence. But there is no provision in Rule 15 for completely setting aside previous inquiries on the ground that the report of the inquiring officer or officers does not appeal to the disciplinary authority".

6. In the present case, the respondents have observed on the scrutiny of the case that inadvertently, certain evidences were not taken on record before issuing the charge sheet. Hence it was decided to withdraw the charge sheet without prejudice to the right of the disciplinary authority to issue fresh charge sheet. Accordingly, the order dated 28.2.96 was passed and a fresh charge sheet dated 27.8.96 was issued. This order is apparently against the directions of the Hon'ble Supreme Court given in the aforesaid ruling. The original applicant Ramesh Kumar Jaggi died after the filing of this OA and his legal heirs are impleaded in the OA as the applicants.

7. We find that in view of the principle laid down by the Hon'ble Supreme Court in the aforesaid ruling, the charge sheet and the enquiry proceedings and the orders passed by the respondents on the basis of the

charge sheet and the enquiry report against the delinquent employee are quashed and set aside.

8. The OA is allowed. No costs.

(Madan Mohan)  
Judicial Member

(M.P.Singh)  
Vice Chairman

aa.

पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....

पत्तिलिपि अर्पित:-

- (1) सचिव, उच्च न्यायालय काउंसिलर, जबलपुर
- (2) आवेदक श्री/श्रीमती/व्यु .....के काउंसल
- (3) प्रत्यर्थी श्री/श्रीमती/व्यु .....के काउंसल
- (4) बंधुपाल, दफेअ., जबलपुर न्या.चौकीठ  
सूचना एवं आवश्यक कार्रवाई हेतु

उप निदेश

Issued  
On 22.3.05  
BS