

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 765 of 2001

Jabalpur, this the 29th day of July, 2004

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

Smt. Bernadet Tirkey,
W/o. T.S. Tirkey, aged
35 years, Chemist, Telecom
Factor, Wright Town, Jabalpur
(MP), R/o. Jai Bajrang Nagar,
Karmeta, Jabalpur (MP).

... Applicant

(By Advocate - None)

V e r s u s

1. Union of India,
Through - Secretary,
Telecommunication,
New Delhi.
2. Chief General Manager,
Telecom Factory,
Wright Town, Jabalpur (MP).
3. Dy. General Manager,
Disciplinary Authority,
Telecom Factory, Wright Town,
Jabalpur.

(By Advocate - Shri S.A. Dharmadhikari)

O R D E R

By Madan Mohan, Judicial Member -

None is present for the applicant. Since it is an old case of 2001, we proceed to dispose of this Original Application by invoking the provisions of Rule 15 of CAT (Procedure) Rules, 1987. Heard the learned counsel for the respondents and perused the records carefully.

2. By filing this Original Application the applicant has claimed the following main relief :

"9. the applicant prays that the impugned order dated 3.5.2001 Annexure A-12 above passed by the respondent No. 3 be quashed and the applicant be exonerated from the alleged mis-conduct."

3. The brief facts of the case are that the applicant is

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employed as Chemist at Telecom. Factory, Wright Town, Jabalpur. The applicant was issued a charge sheet by an order dated 16.3.1995 under Rule 14 of OCS(CCA) Rules, 1965 by respondent No. 3. The allegations against the applicant was that while she was posted as Chemist from August, 1989 to December, 1993 she issued incorrect certificates that after 4 times dips for 1 minute in copper sulphate solution there is no any red deposition on the surface of nuts and bolts. Hence, galvanising found proper, as a result of which the articles were purchased by the Telecom. Factory, Jabalpur whereas actually the materials i.e. nuts and bolts supplied by M/s. Quality Engineering Works were of inferior quality and not conforming to the specification i.e. nuts and bolts were not hard dip galvanized as specified in purchase orders and consequently the factory has been put to a loss of Rs. 2,61,019. The charge sheet was accompanied by memorandum of articles, statement of imputations list of witnesses and list of documents. The applicant denied all these allegations within the stipulated period and submitted his written statement on 2.5.1995. The incident had taken place in the year 1993 and the charge sheet was issued in the year 1995. The respondents kept silent till 22.4.1999. The respondents have started the enquiry on 15.9.1999. The applicant was asked whether she admits or denies the charges framed against her. The applicant is alleged to have admitted the charges. The enquiry officer on the basis of the admission of the applicant submitted the enquiry report on 25.10.1999, whereby the charges framed against the applicant is alleged to have been proved by her own admission. On 4.1.2000, the respondent No. 3 issued a show cause notice to the applicant, whereby she is alleged to have agreed with the findings of the enquiry officer. The applicant submitted its reply on 17.1.2000. She has submitted in the reply that the alleged report was

changed under threat and undue influence of her immediate boss i.e. Assistant Engineer who threatened her to spoil her Annual Confidential Report meaning thereby the admission was not voluntary and unqualified. The applicant again on 8.1.2001 after a period of about 1 year was issued a show cause notice, whereby a further chance was given to the applicant to submit his explanation to the imposition of the penalty. The applicant submitted her reply on 17.1.2001, whereby it was again reiterated that the admission was not voluntary and it was under the threat queries and undue influence of immediate boss. The disciplinary authority did not conduct the enquiry further and simply on the basis of the admission has passed order imposing the penalty of reducing her salary to the lowest stage from Rs. 5625/- to 4,500/- for a period of 4 years ordering further that the applicant would not earn increment during the said period and the same would also affect in the future increments in her service career. Aggrieved by this the applicant preferred an appeal which was partly allowed by the appellate authority and the reduction to the lowest scale has been ordered to be effective for 2 years instead of 4 years. The remaining penalty has been kept intact. Aggrieved by this the applicant has filed this OA claiming the aforesaid reliefs.

4. The learned counsel for the respondents argued that the disciplinary authority on denial of charges by the applicant, appointed the enquiry officer and presenting officer and directed the applicant to finalise the selection of her defence counsel, incase she desires to engage one, before the commencement of the enquiry. The applicant admitted the charges framed against her, which was further confirmed by her that she is admitting the same at her own free will and without any pressure or influence. Thereafter the enquiry officer submitted the enquiry report to the disciplinary authority

concluding that the charges framed against the applicant has been proved by her own admission made out of free will and without any pressure. The disciplinary authority issued a show cause notice to the applicant and the applicant furnished the reply stating therein that the mistake has been committed by her due to ignorance and lack of experience further assuring that such mistake will not be repeated in future and requested for exonerating from charges. The disciplinary authority did not agree to her submissions that report of testing was changed by her under influence/pressure of her officer and her ignorance and lack of experience, because she already had four years working experience in the field and she gave wrong report knowingly, as a result wrong material was accepted which is still unused causing loss to the Department. This is a serious charge and even then the applicant was given opportunity of hearing as she has preferred an appeal before the appellate authority and the appellate authority after considering her case reduced the penalty imposed by the disciplinary authority. Hence, no irregularity or illegality was committed by the respondents in passing the impugned orders and also in conducting the enquiry.

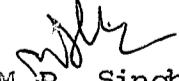
5. ^{hearing} After the learned counsel for the respondents and perused the pleadings and records carefully. We find that the applicant herself admitted the charges levelled against her. She stated in her reply to the show cause notice, that the mistake has been committed by her due to ignorance and lack of experience further assuring that such mistake will not be repeated by her in future and requested for exonerating from charges. She did not make any complaint to any higher authorities that this admission of charge was obtained by the respondents by any threat or pressure. Merely the allegation that the admission was not voluntary and it was under threat

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and undue influence of immediate boss, by the applicant seems to be false and baseless. She had experience of four years as alleged by the respondents and on the false report given by the applicant the wrong material was accepted by the Department which is still lying unused causing loss to the Department. The charges against the applicant are serious in nature. We also perused the orders passed by the disciplinary authority as well as by the appellate authority. They are speaking orders and the applicant was given opportunity of hearing. The ~~element b~~ appellate authority taking a ~~lenient~~ view has reduced the penalty imposed by the disciplinary authority from reducing her salary to the lowest stage from 5625/- to 4500/- for a period of 4 years to reduction to the lowest scale for a period of 2 years. The remaining penalty of the disciplinary authority has been kept intact. The charges against the applicant are grave and serious as it caused heavy financial loss to the respondents. There seems to be no violation of principles of natural justice. The orders passed by the respondents are legal and justified. It is a settled legal proposition 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.

6. Accordingly, we are of the considered opinion that the applicant has failed to prove his case and the Original Application is liable to be dismissed as having no merits. Hence, the Original Application is dismissed. No costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman