

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
(CAMP OFFICE AT INDORE)

Original Application No. 101 of 2002

Jabalpur, this the 14th day of June 2004

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

Munnalal S/o Laxminarayanji Verma
age: 53 years, Occupn:Service(Junior
Operator) R/o: 48-A, Adarsh Nagar,
Dewas.(MP)

APPLICANT

(By Advocate - Shri Rajendra Gupta for A.K. Shethi)

VERSUS

1. Union of India, Through Secretary to Government, Ministry of Finance, Department of Expenditure, E-3 Branch, North Block, New Delhi - 1.
2. Dy General Manager, Bank Note Press, Dewal(Disciplinary Authority)
3. General Manager, Bank Note Press, Dewas(Appellate Authority)

RESPONDENTS

(By Advocate - Smt. S.R. Waghmare)

ORDER

By Madan Mohan, Judicial Member -

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

"A. The punishment order dated 28.10.2000 (Annexure-A/21) passed by the respondent No.2 as well as the appellate Order dated 5.7.01(A/23) as well as the Review Order dated 8.9.01(A/25) issued by the respondent No.3, be quashed.

B. The applicant may be awarded the cost of the present petition from the respondents."

2. The brief facts of the case are that the applicant is working as Junior Operator in the Bank Note Press Dewas. He was suspended by order dated 24.2.99 and issued a charge sheet dated 21.3.99 alleging that the applicant has quarelled with his colleague employee of the Bank Note Press in the campus of Bank Note Press and has beaten him and because of this, the applicant has shown indiscipline in Bank Note Press, Dewas. The applicant had submitted his reply to the charge sheet denying the charges levelled against him.

The respondents have appointed an enquiry officer to investigate the charges levelled against the applicant. The enquiry officer has submitted the enquiry report on 20/22-3-2000 in which it has not been found proved that the applicant used to beat his colleague employees in Bank Note Press Campus, but has been found proved that the applicant used to quarrel with ^{his} colleague employees of Bank Note Press. The report of the Enquiry officer has been sent to the applicant asking for his explanation/ reply on the enquiry report. The applicant has submitted his reply ^{on} 17.4.2000 (Annexure-A-20). Thereafter, the respondents had issued an order dated 28.10.2000 revoking the suspension order dated 24.2.99 and directed that the period of suspension would be treated non-duty for all purposes. It has further been ordered that the applicant's salary be lowered down by 4 stages from 1.11.2000 from Rs.5875/- to 5375/- for 3 years and it has been further ordered that during this period of 3 years the applicant will not get any increments. The applicant has preferred an appeal against the aforesaid order to the appellate authority. The appellate authority has rejected his appeal vide order dated 5.7.01 (Annexure-A-23). Thereafter, the applicant has submitted a review petition before the respondent No.3 on 23.8.2001, which was also rejected vide order dated 8.9.2001. Aggrieved by this, he has filed this OA claiming the aforesaid reliefs.

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

4. It is argued on behalf of the applicant that according to the enquiry report dated 20.3.2000 (Annexure-A-18) no charge was proved against the applicant which is clearly mentioned at internal page 19 of the enquiry report. It is also argued on behalf of the applicant that the alleged incident by both the parties was on the same date,

same time and same place. The version of both the parties are against each other. The applicant says that Shri V. Gangulde was aggressor and he provoked the applicant. He has further argued that according to the Hon'ble Supreme Court it is settled proposition of law that in case of cross version of both the parties trial should be conducted by one court and it should not be decided separately while in this case the enquiry was conducted separately against the applicant and Shri V. Gangulde and the respondents in not conducting the enquiry jointly has committed an apparent error on their part. The learned counsel for the applicant has drawn our attention towards the statement recorded by the enquiry officer during the enquiry proceedings. In this nothing is stated against the applicant and it clearly shows that the charge against the applicant about cause of hurt to his colleague employee in the Bank Note Press Campus is not proved because the witness has said that he did not see Munnalal Verma i.e. the applicant causing any injury to his co-employee. He further stated that the copies of the relevant documents were not furnished to the applicant and also no proper opportunity of hearing was given to him. The impugned ^{also} orders are non-speaking orders.

5. On the other hand, the learned counsel for the respondents has argued that the aforesaid arguments advanced by the learned counsel for the applicant is against the facts on record. In the enquiry report the charges were proved against the applicant and in this report the enquiry officer has also mentioned that from the statement and facts it is concluded that the charge against the applicant about cause of hurt to his colleague employee in the Bank Note Press Campus is not proved because the witness has said that he did not seen Munnalal Verma causing any injury to Shri V. Gangulde. But in

this report the enquiry officer has clearly mentioned that the charges levelled against Munnalal Verma about his quarrelling is proved and further held that according to the statement of prosecution witness, Laxman Singh, Baghel, between Munnalal and V. Gangulde there was atmosphere of hot discussing and on this tense atmosphere both were irritated and both were fingering upon each other and were also quarrelling with each other. The learned counsel for the respondents has further argued that the aforesaid arguments of the applicant that the departmental proceedings were initiated against both the employees which must have been conducted by the respondents jointly is legally not correct because in CCS (CCA) Rules, it is the discretion of the authorities concerned to conduct the joint enquiry. This is not a criminal trial. Hence, no illegality or irregularity has been committed by the respondents in conducting the enquiry. The learned counsel for the respondents further argued that the charges are established against the applicant and this is not a case of 'no evidence'. The applicant was given opportunity of hearing and also argued that to create an unpleasant atmosphere by the employees while discharging their duties adversely effect the smooth functioning of the office of the respondents. The respondents have taken a lenient view while passing the said impugned punishment on the applicant. There is no irregularity or illegality in the alldged impugned orders.

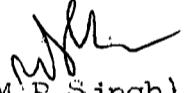
6. We have given careful consideration to the rival contentions made on behalf of the parties and we find that the arguments raised by the applicant about joint trial relates to criminal proceedings or criminal trial. Though there is provision under CCS (CCA) Rules, 1965 for common enquiry but according to Rule 18 of the Rules ibid the word 'may' is used by the legislature which is not mandatory and it is the discretion of the authorities concerned to conduct the enquiry jointly or separately. If the departmental proceedings against two employees are conducted separately, there is no irregularity



or illegality in this regard as this is not the criminal trial. It is not a case of 'no evidence'. The applicant was given due opportunity of hearing and copies of relevant documents were also furnished to him. The charges against the applicant were also established and proved by cogent evidence. Hence the contention of the applicant's counsel that this is a case of 'no evidence' is not sustainable and the same is rejected. The alleged incident committed by the applicant creates adverse atmosphere in the smooth functioning of the respondents' office. It is the settled position that the Courts/Tribunals cannot re-appraise the evidence and also cannot go into the quantum of punishment unless it shocks the conscience of the Courts/Tribunals. Accordingly, we find that proper and due opportunity of hearing was given to the applicant and the impugned orders are passed with reasons.

7. Hence, the Original Application has no merit and it is accordingly dismissed. No costs.


(Madan Mohan)
Member (Judicial)

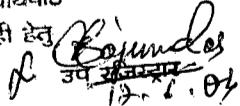

(M.P. Singh)
Vice Chairman

/na/

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

दस्तिलिपि अद्ये दिन:-

- (1) सचिव, उच्च न्यायालय दायर एसोसिएशन, जबलपुर
- (2) आवेदक श्री/प्रीनती/कु..... के काउंसल AK Sethi
- (3) प्रधारी श्री/प्रीनती/कु..... के काउंसल SH Waghmare
- (4) गोपनी, दोपां, जबलपुर न्यायाधीश

राज्याधीश एवं आवश्यक कार्यवाली देने

ज्ञान बाजूराणी
12.7.04


12.7.04