

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

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Original Application No. 855/2001

Bilaspur, this the 6th day of July, 2004

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Member (J)

S.K. Ghosh, Age 55 years,
S/o N.C. Ghosh,
Chargeman Gr.I,
Personnel No. 816232,
Section Quality Control IP/SC
Rifle Factory, Ishapur, Distt. 24,
Barguna (North), West Bengal.

...Applicant

(By Advocate: None)

-versus-

1. Union of India through
Secretary,
Dept. of Defence Production & Supplies,
South Block,
New Delhi.
2. Director General,
Ordnance Factory Board,
10-A, Shaheed Khudi Ram Bose Road,
Kolkatta.
3. Deputy Director General,
Ordnance Factory Board,
10-A, Shaheed Khudi Ram Bose Road,
Kolkatta,
4. General Manager,
Gun Carriage Factory,
Jabalpur.

...Respondents

(By Advocate: None)

O R D E R

By Madan Mohan, Judicial Member -

By filing this original Application, the applicant has sought the following main reliefs:

- "(a) to quash the impugned penalty order dated 5.5.2000 (A/5) and also the appellate order dated 23.11.2000 (A/8),
- (b) to hold that the action of the respondent in initiating the departmental enquiry and punishing the applicant was unwarranted.
- (c) to hold that the action of the respondents in

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punishing the applicant was unsupported by any evidence or material and thus is perverse in the eyes of law.

(d) to hold that despite total lack of evidence and material on record and the case being a case of 'no evidence, the punishment awarded to the applicant is perverse and unlawful."

2. The brief facts of the case are that the applicant presently holds the post of Chargeman Gr.I(Technical) in substantive capacity and at the relevant point of time in same capacity was posted in MID Section under respondent no. 4 which was concerned with inspection of goods purchased by the Factory from the open market. The P.V. (Provision) Section is bifurcated into two groups i.e. procurement group and Bill Group. The inspection Section in which the applicant was posted was a separate and distinct section. After the supplier is identified by the P.V. Section, a request is made to the Inspection Section to depute its officer for visiting the premises of the supplier, to carry out necessary inspection subject to availability of laboratory at the place of the supplier and thereafter to prepare an inspection note containing conditional or unconditional recommendations regarding the acceptability of the material purpose to be supplied by the supplier. Acceptance of material is subject to final inspection and laboratory test at Gun Carriage Factory.

2.1 The applicant was chargesheeted under Rule 16 CCS (CCA) Rules, 1965 alleging certain irregularities in inspection of the materials (A/1). The chargesheet was based on false allegations and the falsity of which gets all the more evident by the delay of about 3 1/2 year in issuing the chargesheet and seeks the supply of relevant documents i.e. supply test reports, rejection memo, inspection note including statement of willingness so as to enable the applicant to submit his reply to the chargesheet. The said request of the applicant was rejected vide Annexure A-3 by the respondents. Applicant further requested time and again for the reasons of being handicapped due to non-supply of relevant documents.

Despite that penalty of reduction of pay by two stages without cumulative effect for one year was inflicted upon the applicant by the respondent no. 3 vide Annexure A/5). Aggrieved by that, the applicant preferred an appeal before the respondent no. 2 i.e. the appellate authority but the appeal was rejected vide order dated 23.11.2000 (A/8). The disciplinary order and the appellate order are non-speaking and non-reasoned order and are liable to be quashed. Hence, this application has been filed seeking the aforesaid reliefs.

3. None is present on either side. Since this is an old matter pertaining to the year 2001, we proceed to decide this O.A. by invoking the provisions of Rules 15 and 16 of the Central Administrative Tribunal (Procedure) Rules, 1987.

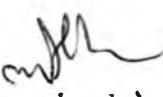
4. We have carefully perused the material available on record and we find that the charge against the applicant is of a serious nature as the applicant was, at the relevant point of time, careless and negligent in performing his duties as assigned i.e. inspection of stores properly resulting into loss to store, which tantamounts to gross Misconduct unbecoming of a Govt. servant in violation of Rules 3(1)(iii) of the CCS (Conduct) Rules, 1964. After perusal of the reply of the respondents we find that the applicant was sent to Kanpur on 11.9.1995 to do the inspection of cotton wastes and he inspected the same on 12.9.1995. Although the applicant claimed to have inspected the alleged cotton waste on 12.9.1995 as per the condition of supply order, when it reached the respondents factory, it was not found upto the quality as prescribed in the supply order. Hence, it was rejected by the respondents. Before being rejected, the material/Inspection Department, the applicant forwarded the inspection note to the purchase section who in turn passed the Firm's bill without even checking whether it is as per the terms of the supply order and whether the material has come to the factory or not. Since the material was out rightly rejected on receipt at the

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respondent no. 4 factory premises, this resulted in loss to a tune of Rs. 2.17 lacs to the Govt. and the Board of Enquiry was ordered to ascertain the cause and to fix the responsibilities. The Board of Enquiry conducted the preliminary enquiry and found that the applicant guilty for the said loss. We further find that the applicant was given due opportunity of hearing as he filed his representation to the chargesheet and appeal against the order of the disciplinary authority and both the authorities after considering his contentions raised in the representation and appeal respectively passed the impugned orders with reasons. Hence, the impugned orders passed by the authorities concerned are speaking orders and no irregularity or illegality has been committed by the respondents while passing the impugned orders. Moreover, it is the settled position of law that the Tribunals/ Courts cannot re-appraise the evidence and even cannot go into the quantum of punishment.

5. In the facts and circumstances of the case, we find no infirmity with the orders passed by the disciplinary authority and the appellate authority and the applicant has failed to prove his case. Therefore, the O.A. fails merit and deserves to be dismissed which is accordingly dismissed with no order as to costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman

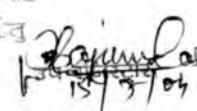
| NA |

पृष्ठांकन से ओ/न्या.....अवलम्बन, दि.....
प्रतिलिपि अवधे दिन:-

(1) सचिव, उच्च न्यायालय वाई एसोसिएशन, जलालपुर
(2) आदेशक श्री/श्रीमती/कु.....के काउंसल
(3) प्रदर्शी श्री/श्रीमती/कु.....के काउंसल
(4) विधायक, दोषपता, जलालपुर लोकपाली

राजना एवं अदालतक कार्यालये द्वा

S. Nagh.
SP Singh


15/3/04

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