

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR  
Original Application No. 883/2000

Jabalpur, this the 19th day of December, 2004

Hon'ble Mr. M.P. Singh, Vice Chairman  
Hon'ble Mr. G. Shanthappa, Judicial Member

Shri Vinod Kumar Shrivastava,  
S/o Late Shri Ram Asre, aged about  
33 years, Resident of Shukravari  
Bajaria, Khermai Ward, House No.  
805, Jabalpur (MP)

APPLICANT

(By Advocate - Shri S.P. Rai on behalf of Smt. S. Menon)

VERSUS

1. Union of India,  
Through the Secretary,  
Ministry of Defence,  
Government of India,  
New Delhi.
2. The Ordnance Factory Board,  
10/A, Shahid Khudiram Bose  
Lane, Calcutta (West Bengal),  
Through : Its Chairman.
3. The General Manager,  
Gun Carriage Factory,  
Jabalpur (M.P.)

RESPONDENTS

(By Advocate - Mr. S.A. Dharmadhikari)

ORDER (ORAL)

By M.P. Singh, Vice Chairman -

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

(i) To quash the memorandum of charge sheet dated  
25.5.1999 (Annexure-A-2) and the entire procedure  
leading to the issuance of order dated 30.3.2000  
(Annexure-A-6).

..... to quash the order dated 11.9.2000,  
(Annexure-A-8), passed by the Appellate Authority  
Respondent No.2 and hold it as wholly unjustified  
and malafide.

..... to order the reinstatement of the  
applicant with full back wages together with all the  
other consequential and ancillary service benefits  
from the date of the passing of the impugned order  
until the actual reinstatement.

*W.M.*

2. The brief facts of the case are that the applicant was working as messenger boy. The respondents had issued a charge sheet on 25.5.1999 to the applicant for remaining absent unauthorisedly and without any prior leave and approval. In the years 1997, 1998 and 1999 total unauthorised absence was 288, 215 and 204 days respectively. The respondents have appointed an enquiry officer to enquire into the charges who held the charges proved. The applicant was given a copy of the enquiry report to file a representation. Thereafter, he was reminded by the respondents to send representation for his defence. The applicant has submitted his representation. After taking into consideration, the findings of the enquiry officer and other relevant facts, the respondents have imposed the penalty of compulsory retirement on the applicant. The applicant has filed an appeal against the order of disciplinary authority. The appellate authority vide order dated 11.9.2000 has rejected the appeal. Aggrieved by this order, he has filed the present OA.

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

4. The applicant has stated in his application that the enquiry has not been properly held by the enquiry officer and he has also stated that the disciplinary authority has taken his past record in to consideration while imposing the penalty of compulsory retirement. On the other hand the learned counsel for the respondents stated that past record was not taken into consideration and only observation was made by the disciplinary authority. The disciplinary authority only stated that he was punished for the same offence and he has not made any improvement. The learned counsel for the respondents has also stated that the enquiry has been

held in accordance with rules. The applicant has been given an opportunity of hearing and as such the principle of natural justice have been observed by them. He has also stated that the facts have been admitted by the applicant in which he has stated that he is satisfied with the procedure adopted by the respondents for holding the enquiry. He has also stated that he does not want to produce any witness for his defence. The learned counsel for the respondents has drawn our attention to the judgment of the Hon'ble Supreme Court in the case of Ashok Kumar Vs. State of U.P., 1996(1) SCC 302 wherein the Hon'ble Apex Court has held that absence from duty without prior permission is a grave misconduct and the major penalty including removal from service can be imposed. In the instant case the respondents were very lenient in imposing the penalty of compulsory retirement on the applicant.

5. We find that the applicant was unauthorisedly absent from his duties without prior leave and permission as admitted by him in his representation. The applicant vide his representation dated 3.3.2000(Annexure-A-4) admitted the fact that he did not obtain prior permission before going on leave on many occasions. We find that the respondents have followed the laid down procedure. After holding the enquiry they have also sent a copy of the enquiry report to the applicant to make his representation. Thus, the respondents have given an opportunity of hearing to the applicant and as such the principle of natural justice has been followed by them. In view of the settled position of law this Tribunal cannot re-appraise the facts and also cannot go into the quantum of punishment. In this case the applicant himself had admitted his guilt of not obtaining the prior permission while remaining unauthorisedly absent. In view of the judgment of the Hon'ble Supreme Court in the case



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of Ashok Kumar (supra), the applicant has committed the grave misconduct.

6. In view of the aforesaid reasons, we do not find any ground to interfere <sup>with</sup> in the orders passed by the disciplinary authority and the appellate authority. The OA is, therefore, dismissed. No costs.



(P. Shanthappa)  
Judicial Member

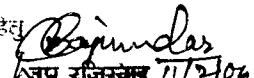
  
(M.P. Singh)  
Vice Chairman

SKM

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

प्रिलियोग नाम विवर.....

- (1) सहित, उन्नीसवारी वर्षीय विद्यार्थी, जबलपुर
- (2) अपेक्षा विद्यार्थी, जबलपुर के काउंसल Smt. S. Menon.
- (3) प्रत्यक्षी विद्यार्थी, जबलपुर काउंसल SA Dharmachikar
- (4) वास्तविक, लोकान, जबलपुर जल विभाग  
सूचना एवं अवश्यक कार्यवाली है।

  
उप रजिस्ट्रर 11/2/04

  
FAS/ed  
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11/2/04