

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No.897 of 1998

Jabalpur, this the 11th day of February, 2003.

Hon'ble Mr. Justice N.N. Singh- Vice Chairman
Hon'ble Mr. R.K. Upadhyaya- Member (Admnv.)

Bharat Narayan Sonkar son of Shri Shiv
Narayan Sonkar, aged about 35 years,
Occupation- Service in Grey Iron
Foundry, Jabalpur, R/o H.No.1046,
Bapu Nagar Ranjhi, Jabalpur, M.P.

-APPLICANT

(By Advocate- Mr.H.R.Bharti)

Versus

1. The Union of India through
the Chief Secretary, Ministry of
Defence, New Delhi.
2. The Additional Director General,
Ordnance Factory Board,
Calcutta- 700 001.
3. The General Manager,
Grey Iron Foundry, Jabalpur, M.P.

-RESPONDENTS

(By Advocate- Mr.B.da.Silva)

O R D E R

By R.K.Upadhyaya, Member (Admnv.):

By this application, the applicant has challenged order of punishment dated 29.5.1997 (Annexure-A-12) by which his pay has been reduced from Rs.1090/- to Rs.1050/- with effect from 29.5.1997 for a period of two years with cumulative effect in the time scale of pay of Rs.950-1500. An appeal filed against this order of punishment has also been rejected by the appellate authority by his order dated 31.10.1997 (Annexure-A-15).

2. The applicant employed as LDC/BG in Grey Iron Foundry, Jabalpur was issued a charge-sheet dated 31.12.1996 (Annexure-A-3). The first charge of misconduct was that on 13.12.1996 at about 1630 Hours, AGM/P and WM/A instructed Cash Office/GIF to make arrears payment to the industrial employees. Meanwhile, the applicant reached

Uinsan

the cash office and compelled the administration not to make the payment on this date. This resulted in non-payment to the industrial employees on 13.12.1996. And again on 14.12.1996, the applicant did not permit the payment to be made to the industrial employees. The second charge related to compelling his other colleagues of Admin Block to avail two hours short leave collectively, which resulted in the situation that the employees of Admin Block remained on short leave from 0800 hours to 1000 hrs on 14.12.1996.

2.1 It is pointed out by the learned counsel of the applicant that the enquiry officer has held the first charge as established but the second charge as not established. The learned counsel stated that the applicant was issued Sports Pass (Annexure-A-9) for 'Kabaddi' practice on 13.12.1996 at 12.30 hours in which it was also stated that he will not report back. It was, therefore, urged that a person who has left the office at 12.50 hours as per remarks on the Sports Pass (Annexure-A-9) he cannot be held guilty of any activity which is the basis of the punishment for misconduct in the afternoon of 13.12.1996 and forenoon of 14.12.1996. He, therefore, urged that the entire proceedings of punishment and consequential punishment and appellate orders deserve to be quashed.

3. The learned counsel of the respondents placed reliance on the reply filed and stated that the scope of judicial review by this Tribunal is limited to see if there is any procedural irregularity or violation of principles of natural justice. He invited attention to the enquiry report and the reasons given by the enquiry officer for upholding the first charge. The learned counsel stated that there is enough evidence in support of the findings of the enquiry officer and the disciplinary authority has imposed punishment on the applicant

Amr

on the basis of the first charge only. The appellate authority has also confined himself to the misconduct relating to the first charge. This being not a case of no evidence, no interference is called for by this Tribunal.

4. We have heard the learned counsel of both the parties and have perused the material available on record carefully.

5. The applicant was issued a charge-sheet dated 31.12.1996 (Annexure-A-3) which included two charges. The applicant was required to file a reply to this charge-sheet within 10 days. The learned counsel of the applicant has not placed on record whether any reply to the charge-sheet as required was filed by the applicant. The enquiry officer in his report dated 24.5.1997 (Annexure-A-6) has stated that "Prosecution Witnesses of Shri A.K.Gohliya, AGM/P(PW-1), Shri Gagan Chaturvedi, WM/A(PW-2) and Shri M.K.Shrivastava, Sup/SO(PW-3) during their examination and cross examinations have confirmed that Shri Bharat Narayan was present in the protest being made by the employees of Admin Block on the A/N of 13/12/96 and in the morning of 14/12/96. The defendant has submitted in his Statement of Defence/Brief that Shri Bharat Narayan was not available inside the factory on 13/12/96 since he had gone out against an NRB On-duty Gate Pass from 1230 hrs onwards. Nevertheless, this plea is countered by the Statement of Shri V.K.Bhatia, JWM/SO who appeared as PW-4 in his Question & Answer No.1 stating that an individual who goes out on On-Duty Gate Pass and enters the factory during lunch break, is normally not traceable. The plea of the Defence that Shri Bharat Narayan was not present inside the factory in the A/N of 13/12/96 is therefore not acceptable on the contrary all the three Prosecution Witnesses in their documentary as well as oral witnesses have proved the presence of Shri Bharat Narayan on 13/12/96 and also that what transpired between AGM/P and others with Shri Bharat Narayan is also narrated". The enquiry officer has further narrated the oral evidence

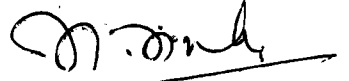
as well as analysed the evidence before him and has come to the conclusion that the first charge as per charge-sheet was established. The disciplinary authority after service of the copy of the enquiry officer's report on the applicant and after considering the applicant's representation dated 27.5.1997 has passed the impugned order of punishment dated 29.5.1997 (Annexure-A-12). After careful consideration, he has come to the conclusion that article of charge no.1 as per the charge-sheet had been found established against the applicant and, there is no reasonable ground to condone such misconduct on his part. However, taking a lenient view, he has passed the punishment order of reducing the pay of the applicant from Rs.1090/- to Rs.1050/- with effect from 29.5.1997 for a period of two years with cumulative effect only. Aggrieved by the order of punishment, the applicant had moved an appeal as per his petition dated 17.7.1997 (Annexure-A-14) in which he has alleged that he has been victimised due to his bona fide trade activities. The appellate authority vide order dated 31.10.1997 (Annexure-A-15) has considered the applicant's appeal as well as the records on the basis of which the punishment has been inflicted on the applicant. The appellate authority has come to the conclusion that obstructing payment cannot be termed as bona fide trade union activities. According to the appellate authority, the offence of the applicant was grave and there was no substantial material warranting interference in the order of punishment. We are of the view that this is neither a case of no evidence nor a case of any procedural irregularity. There is also no violation of principles

Chandram

of natural justice. Therefore, we do not find any justification to interfere with the impugned orders of the disciplinary and appellate authorities. In this view of the matter, this Original Application is dismissed without any order as to costs.



(R.K. Upadhyaya)
Member (Adminv.)



(N.N. Singh)
Vice Chairman

rkv.

पृष्ठांकन सं ओ/व्या..... दि.....

परिचालिका

(1) सचिव, उच्च न्यायालय

(2) सचिव, श्री/श्री/श्री

(3) सचिव, श्री/श्री/श्री

(4) सचिव, श्री/श्री/श्री

सूचना एवं आवश्यक कार्रवाई

उप सचिव



13/2/03

H R Bharti
Bala Siva - NLU

Issued
on 14-2-03
BS