

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 898 of 1998

Jabalpur, this the 4th day of September, 2003

Hon'ble Shri D.C. Verma, Vice Chairman (Judicial)
Hon'ble Shri Anand Kumar Bhatt, Administrative Member

R.N. Chaudhry, Sup'B'/Body/VET
(Compulsorily Retired),
R/o Bhantalaiya Sidh Baba Road,
Hira Pahalwan's Building, West
Kariya Pathar, Ghamapur, Jabalpur (M.P.). ... Applicant

(By Advocate - Shri N.P. Tiwari)

V e r s u s

1. Union of India through
Secretary Ministry of Defence
Production) South Block New Delhi.

2. Director General/Chairman
Ordnance Factories Board,
10-A Auckland Road, Calcutta.

3. General Manager,
Vehicle Factory, Jabalpur (M.P.). ... Respondents

(By Advocate - Shri S.A. Dharmadhikari)

O R D E R

By Anand Kumar Bhatt, Administrative Member -

This Original Application is against the penalty order dated 04.10.1996 (Annexure A-1) and the appellate order dated 07.08.1998 (Annexure A-3), by which the applicant has been compulsorily retired from service with effect from 04.10.1996 and wherein, the disciplinary authority treated the period of suspension as not on duty although he was eligible for full pension and retirement gratuity on the date of the compulsory retirement. The appeal was also dismissed.

2. The facts of the case in brief are that an enquiry was conducted against the applicant for the gross misconduct of pressurising the factory employees to claim LTC, arranging false journey tickets/documents for factory employees to claim LTC, and conduct unbecoming of a Government servant. In

the enquiry, 8 prosecution witnesses were examined and 2 of the witnesses were cross-examined by the applicant, ~~and~~ One prosecution witness Shri Sukh Lal could not be examined as he was retired from service on 30.11.1994. However later as the applicant did not co-operate with the enquiry and neither he nor his defence counsel presented themselves on the scheduled date of hearing, ⁱⁿ ~~and accordingly~~ ex-parte proceedings were conducted and in the report of the enquiry officer dated 06.05.1996 the charges were found to be proved.

3. The main grounds taken by the applicant are that the charges are based upon usual exchange of advices amongst the factory employees. LTC claims were processed by the office, ⁱⁿ ~~and~~ the respondents should have been made due enquiry about the genuineness of the documents presented and mere arranging of documents in a bonafide manner is no misconduct. The disciplinary authority did not appoint any defence assistant and the ex-parte enquiry conducted by the enquiry officer is arbitrary. The applicant claimed that the employees who obtained fraudulent LTC claims have been given minor penalties only, whereas the applicant has been given the major penalty.

4. The respondents in their reply have stated that in the year 1992 reports were received that some of the factory employees were involved in preparing false LTC claims, and after preliminary investigation it was found that the applicant was running a racket of bogus LTC claims in ^{collusion} ~~connection~~ with the outside agent. Accordingly the applicant was suspended with effect from 15.01.1993 and was issued with a charge sheet under Rule 14 of the CCS (CCA) Rules, 1965. A court of enquiry was conducted and the applicant was given reasonable opportunity to defend his case. However he resorted to non-cooperation, changed his defence assistant and did not participate in the enquiry after some time. The

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disciplinary authority accepted the enquiry findings^{and}/supplied a copy of the enquiry report to the applicant and after considering the representation of the applicant a punishment of compulsory retirement from service was imposed. The appellate authority had given personal hearing to the applicant alongwith his defence assistant after which the appellate order was passed on 07.08.1998. The applicant was supplied with a copy of the ex-parte proceeding and the brief of the presenting officer, and the defence brief submitted by the applicant was considered by the enquiry officer. At every stage there has been application of mind and the penalty imposed is commensurate ^{to with} the serious misconduct committed by the applicant. As regards the different punishments given to the applicant and the employees who preferred false claims, it has been averred that each case was decided on its own merit and as the applicant had arranged false journey tickets and pressurised the factory employees for claiming LTC, his charges were more serious.

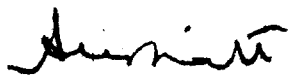
5. We have gone through the pleadings, seen the record of the enquiry and heard the counsel on both the sides.

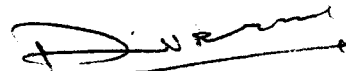
6. Proper procedure has been followed by the enquiry officer, disciplinary authority and the appellate authority. A detailed enquiry has been conducted. Witnesses have been examined and some witnesses have been cross examined by the applicant and it was only after he did not co-operate in the enquiry proceedings, ex-parte proceedings were conducted. The applicant was provided with a copy of the enquiry report and his representation was duly considered before passing the punishment order. Personal hearing was given by the appellate authority before confirming the punishment. The respondents have adequate justification for giving more severe punishment to the applicant. As per the enquiry report the

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applicant pressurised the factory employees to claim LTC and arranged false journey tickets for factory employees to claim the LTC. The applicant was the ^{kingpin} ~~linkpin~~ of the racket and therefore in our opinion the punishment levelled to him is commensurate with his misconduct. The Hon'ble Apex Court in the case of B.C. Chaturvedi Versus Union of India and others reported in (1996) 32 ATC 44, held that where the charges are considered to be proved, the Tribunal is not supposed to interfere with the quantum of punishment, except where it shocks the judicial conscience.

7. We do not consider that any ground has been made out, which are sufficient for us to interfere with the findings of the disciplinary ^{authority} and the appellate authority. Accordingly, the Original Application is dismissed. No costs.


(Anand Kumar Bhatt)
Administrative Member


(D.C. Verma)
Vice Chairman (T)

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पृष्ठंकन सं ओ/न्या.....जबलपुर, दि.....
पतिलिपि अर्पित:-

- (1) सचिव, उच्च न्यायालय कार एरोरिगेशन, जबलपुर
- (2) जज (सी/सी/सी/सी).....के कारंजल
- (3) जज (सी/सी/सी/सी).....के कारंजल
- (4) जज (सी/सी/सी/सी).....के कारंजल

N.P. Tiwari Adl
S.A. Sharmacharan Adl

Teerath
PM
11-9-03

11-9-03