

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT CAMP : INDORE

Original Application No.120 of 2000

Indore, this the 12th day of November, 2003

Hon'ble Shri M.P.Singh - Vice Chairman
Hon'ble Shri G.Shanthappa-Judicial Member

Kamata Prasad S/o Bulakiramji,
Ex.Junior Operator, Age: 47 yrs.
Occupation: NIL, R/o Or.No.47,
Neemad Nagar, B-Sector, Near Shiv Mandir,
Post: Itava, Distt: Dewas

- APPLICANT

(By Advocate - Shri Rajendra Gupta)

Versus

1. Union of India, through Ministry of
Finance, New Delhi.

2. General Manager & Appellate Authority,
Bank Note Press, Dewas.

3. Dy.General Manager & Disciplinary Authority,
Bank Note Press, Dewas

- RESPONDENTS

(By Advocate - Shri S.Akhtar on behalf of Shri B.da.Silva)

ORDER (Oral)

By M.P.Singh, Vice Chairman -

The applicant by filing this Original Application has sought a direction to quash the punishment order dated 3.1.1999 (Annexure-A-5) passed by respondent no.3, and order dated 20.8.1999 (Annexure-A-7) passed by the appellate authority i.e. respondent no.2. He has further sought a direction to reinstate the applicant with back wages and all other consequential benefits.

2. The facts of the case are that the applicant while working as Junior Operator in Bank Note Press, Dewas committed misconduct of beating a senior officer i.e. Shri M.Punnudurai, Deputy Works Manager with an iron rod on 20.6.1995. The applicant was placed under suspension by the respondents with effect from the same date. A charge-sheet was issued to him vide memo dated 8.8.1995 and additional charge-sheet was issued to him on 24.11.1995. The applicant had denied the charges and, therefore, an enquiry officer was appointed to

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enquire into the charges. The enquiry officer conducted the enquiry and came to the conclusion that the charges are established. A copy of the enquiry report was served to the applicant to make a representation. The applicant has made a representation against the findings of the enquiry officer. The disciplinary authority after taking into consideration the representation given by the applicant and also taking into account the relevant material available, passed the impugned order dated 3.1.1999 (Annexure-A-5) removing the applicant from service. The applicant has, thereafter, filed an appeal to the appellate authority and the appellate authority vide order dated 20.8.1999 (Annexure-A-7) has reduced the penalty of removal from service to compulsory retirement on humanitarian grounds and keeping in view the family condition of the applicant.

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

4. The learned counsel for the applicant has submitted that the punishment imposed by the disciplinary authority as well as by the appellate authority is disproportionate to the gravity of the offence. He has also submitted that there is no direct evidence and there were no witnesses. It is only the circumstantial evidence on which the enquiry officer has held the charges established. The learned counsel for the applicant has also submitted that a criminal case was filed against the applicant and he has been acquitted by the criminal court. He submits that in view of the above reasons, the orders passed by the disciplinary & appellate authorities deserve to be quashed.

5. On the other hand the learned counsel for the respondents has stated that the enquiry has been held against the applicant as per the procedure laid down in the CCS (CCA) Rules, 1965. The applicant has been given the opportunity of hearing and also principle of natural justice have been observed

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by the respondents. The appellate authority has also taken a very lenient view and reduced the punishment of the applicant from removal from service to compulsory retirement. He has also stated that the applicant has not filed any review-petition against the order of the appellate authority. In view of these facts, it is contended that the OA deserves to be dismissed.

5. We have carefully considered the submissions made by both the learned counsel for the parties and have also perused the material available on record.

6. We find that the respondents have followed the procedure laid down in the CCS(CCA) Rules and appointed an enquiry officer to conduct the enquiry. After enquiry, the enquiry officer held the charges proved. A copy of the enquiry report was served by the disciplinary authority to the applicant. Thus the applicant has been provided the opportunity of hearing. The disciplinary authority after taking into consideration the representation of the applicant has passed a very detailed and reasoned order. Thereafter the applicant filed an appeal and the appellate authority has also passed a very detailed order reducing the punishment from removal to compulsory retirement. It is a well settled legal position that the Courts & Tribunals cannot reappraise and re-assess the evidence, and it also cannot modify the punishment unless it shocks the conscience of the Tribunal. Keeping in view the gravity of the offence, the punishment imposed on the applicant appears to be commensurate with the gravity of the misconduct.

7. As regards the statement of the applicant that the applicant has been acquitted by the criminal court therefore the punishment imposed in the disciplinary case should be quashed, we may observe that the proceedings in a criminal case and the departmental proceedings operate in distinct and different jurisdictional areas. The standard of proof required in both the proceedings are ^{also} different. In the

