

CENTRAL ADMINISTRATIVE TRIBUNAL  
JABALPUR BENCH  
CIRCUIT AT INDORE

O.A. NO.366/1998

This the 3rd day of September, 2003.

HON'BLE SHRI V. K. MAJOTRA, MEMBER (A)

HON'BLE SHRI J. K. KAUSHIK, MEMBER (J)

Anwar Mohd. Khan S/O Gafoor Mohd. Khan,

Meethi Bai Ki Sarai Sadri Road,  
Baghana, Neemuch 458441 (MP).

... Applicant

( By Shri D. M. Kulkarni, Advocate )

- versus -

1. Union of India through  
Secretary, Govt. of India,  
Ministry of Finance,  
Department of Revenue,  
North Block, New Delhi.

2. Narcotic Commissioner of India,  
19, The Mall Road, Morar,  
Gwalior-6 (MP).

3. Deputy Narcotic Commissioner,  
Neemuch (MP).

... Respondents

( By Shri S.A.Dharmadhikari, Advocate )

O R D E R (ORAL)

Hon'ble Shri V. K. Majotra, Member (A) :

Through this O.A. applicant has challenged the  
penalty of compulsory retirement from service w.e.f.  
24.6.1994. His date of superannuation (at the age of  
58 years) was 30.11.1996. Applicant has sought that  
he should be treated to be in service from 24.6.1994  
up to the age of superannuation, i.e., 30.11.1996,  
with all consequential benefits including consideration  
for promotion. The learned counsel of applicant  
stated that in the year 1992-93 applicant was posted  
as Inspector in the office of the District Opium

Officer, Neemuch. A charge memo under rule 14 of the C.C.S. (C.C.A.) Rules, 1965 was issued to applicant vide Annexure A-VII dated 12.10.1993. The articles of charge read as follows :

"That the said Shri A.M.Khan while functioning as Inspector in the office of the Distt. Opium Officer, Neemuch, MP during the period from 1.4.92 to 30.9.93 has failed to collect any information about the drug trafficking or effect any seizure of Narcotic Drugs & Psychotropic Substance.

By doing so the said Shri A.M.Khan failed to maintained devotion to duty and acted in manner unbecoming of Govt. Servant and contravened the provisions of Rule 3(1)(ii) of the C.C.S. (Conduct) Rules, 1964."

2. The learned counsel stated that the charge memo did not contain the lists of documents and witnesses by which/whom the framed charges were required to be established. He further stated that it is a case of no evidence. The learned counsel further pointed out that the enquiry officer in his report had found that applicant had carried out the orders/duties assigned to him to the entire satisfaction of his superior officers. According to the learned counsel, no target had been fixed by the superior officers for applicant regarding collection of information about drug trafficking or seizure of narcotic drugs and psychotropic substances during the period 1.4.1992 to 30.9.1993. Drawing attention to Annexure A-XII dated 12.10.1993, the learned counsel stated that applicant's colleague Shri V.K.Sharma, Inspector, had also been issued a similar chargesheet but was let off. He also relied on Annexure A-XVII dated 28.8.1996 whereby similar charges against various Inspectors/Sub Inspectors were dropped.

W

3. The learned counsel of respondents admitted that no prosecution witnesses were examined in the enquiry against applicant and that it is not necessary to cite any documents in support of the allegations made against the chargeed officer in the disciplinary proceedings. He stated that applicant had produced two defence witnesses, namely, S/Shri P.L.Yadav and A.S.Negi, who were applicant's superior officers, and that the enquiry officer and other authorities had adopted the evidence of these witnesses to establish the charges against applicant.

4. From the material on record, it is clear that respondents had neither furnished the lists of relevant documents and witnesses in the disciplinary enquiry against applicant nor any witnesses were examined on behalf of respondents to bring home the charges against applicant. Instead of leading their own evidence, adoption of the version of defence witnesses is certainly contrary to the rules and procedure. It has not been denied that Shri V.K.Sharma who had been issued similar chargesheet as applicant, was ultimately let off. Annexure A-XVII dated 28.8.1996 also states that several officers who were issued chargesheets under rule 14 of C.C.S. (C.C.A.) Rules, 1965 were exonerated and disciplinary proceedings initiated against them were dropped. The ground for dropping proceedings against these personnel is stated as follows :

"....Keeping in view the multi farious activities of the QBN staff and the overall goals of the CBN i.e., exercising tight control over cultivation of the opium poppy crop, and that the executive staff of QBN is required to perform his duties for controlling cultivation of opium, right from the initial stage of settlement of its area to its culmination with weighment operation, I am of the view that it was not possible for the executive staff to concentrate whole-heartedly in collection of intelligence and effecting seizures."

It is further observed that in the revision order ACR dossiers of applicant were also taken into account in upholding the punishment of compulsory retirement against applicant. Paragraph 6(vii) of the order dated 31.10.1996 (Annexure A-I) reads as follows :

"(vii) A perusal of A.C.R. dossiers of Shri Khan reveals that his performance in the Department was on the decline. It was rated as 'poor' during 1992-93 and 'just adequate' during 1993-94. Even during earlier years also, his performance has been lacklustre."

While there is no mention of the ACR dossiers and record for the years 1992-93 and 1993-94, utilizing the same as additional material to establish the charges against applicant is extraneous material which is impermissible for use in the disciplinary proceedings.

5. Letting off other colleagues like Shri V.K. Sharma and those mentioned in Annexure A-XVII against whom similar charges had been framed while applicant has been inflicted the punishment of compulsory retirement, is meting out discriminatory treatment to applicant, which cannot be accepted.

6. On the basis of the discussion and reasons recorded above, we find that it is a case of no evidence against applicant, yet applicant has been awarded one of the severest penalties. He has also been discriminated against as similarly situated persons against whom similar disciplinary proceedings were initiated were let off in the disciplinary proceedings. Respondents have also used extraneous material to establish charges against applicant.

Uu

7. In the result, penalty orders of compulsory retirement from service against applicant are quashed and set aside. Applicant would have superannuated on 30.11.1996. Respondents are directed to treat applicant in service from 24.6.1994 up to 30.11.1996, with all consequential benefits including consideration for further promotion. Respondents are further directed to grant all consequential benefits to applicant within a period of three months from the communication of these orders.

8. The O.A. is allowed in the above terms.  
No costs.

JK  
( J. K. Kaushik )

Member (J)

VM  
( V. K. Majotra )  
Member (A)

/as/

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

पत्रिलिपि अब्दुलित :-

(1) सरिया उच्च व्यायालय बार एसोसिएशन, जबलपुर  
(2) उच्च उच्च नी/शीजरी/फु..... के काउंसल  
(3) द्रव्यालय नी/शीजरी/फु..... के काउंसल  
(4) दंशगत, नोपाल, जबलपुर व्यायापीठ  
सूचना एवं आवश्यक कार्यवाही हेतु

Mr. Kulltan Jindal  
SA & Karmachikar Jindal  
Jindal  
Jindal

JK  
ज्ञप्त अजस्ट्राई  
15.9.03

*Recd on  
17/9/03*