

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 380 of 2000

Jabalpur, this the 8th day of April, 2004

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

1. Mangilal Mehar, S/o. late Shri Harlal Mehar, aged about 57 years, resident of Gr. No. A/405, SPM Colony, Security Paper Mill, Hoshangabad.
2. Chander Gupt, son of late Shri Deshram, aged about 59 years, resident of P.16, SPM Colony, Security Paper Mill, Hoshangabad. ... Applicants

(By Advocate - Jr. to Shri S.D. Khan)

V e r s u s

1. Union of India, through the Secretary, Ministry of Finance, New Delhi.
2. Dy. General Manager & Head of the Department, Security Paper Mill, Hoshangabad.
3. Joint Secretary (C&C), Ministry of Finance, New Delhi. ... Respondents

(By Advocate - Shri B.Da.Silva)

O R D E R

By Madan Mohan, Judicial Member -

By filing this Original Application the applicants have sought the following main reliefs :

1. "8.1 to set aside the order of penalty passed by the respondents.
2. 8.2 to order to the respondents to compensate for all the monetory loss incurred to the applicants due to the penalty."

2. The brief facts of the case are that the applicant No. 1 was appointed in the year 1968 as Labour in the Security Paper Mill. Then he became Storeman, Writer and Assistant Store Keeper. The applicant No. 2 was appointed as Time



Keeper in the year 1993. He was a Union leader and was Joint Secretary of SC/ST Employees Union. Presently the applicant is a Section Representative. The applicant No. 2 is a retired army person. He was appointed as Welder, then was promoted to Head Welder, Time keeper and presently is working as Head Time Keeper from 4 to 5 years. The applicants work were satisfactory but unfortunately they were involved in a charge. They were served with a minor penalty charge sheet under Rule 5 of the CCS(cca) Rules, 1965 by the General Manager of Mill, Hoshangabad vide memo dated 29.12.1994 and 5.12.1994. The charges framed against the applicants in the charge sheet was they slept while in duty at night on 14.12.1994. The reply to charge was submitted by the applicants denying the charges levelled against them. Despite of denial of the charge the General Manager imposed the penalty on the applicants of reduction of the basic pay by two stage for two years alongwith holding of their annual increment for the said period of time. Aggrieved by this order they have filed appeal raising the ground that the disciplinary authority himself was witness in the case. The appellate authority turned down the appeal without assigning any reason. The applicants have preferred a revision before the revisional authority. But the same was also decided on 15.3.2000 against the applicants. Aggrieved by this the applicants have filed this Original Application claiming the aforesaid reliefs.

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

4. The learned counsel for the applicant argued that a similar case has been decided on 18th March, 1998 in OA No. 389 of 1995 - N.K. Saxena Vs. Union of India & Ors. in which the Tribunal allowed the OA by quashing and setting aside the

✓

impugned order. He further argued that the orders passed by the respondents are not speaking and these orders are passed without mentioning any reasons and also the applicants were not afforded any opportunity of being heard. A proper departmental enquiry should have been conducted in this matter. Hence the respondents have not followed the mandatory provisions of law. Under these circumstances the Original Application deserves to be allowed.

5. On the other hand the learned counsel for the respondents argued that in the present Original Application the applicants were imposed with minor penalty while the order passed in OA No. 389 of 1995 (supra) relates to a major penalty. Hence this judgment is not applicable to the present case. Secondly the learned counsel for the respondents has drawn our attention towards the Annexure A-2 dated 19.1.1995 and Annexure A-3 dated 13.01.1995. These are the letters written by the applicants admitting the said charge levelled against them voluntarily. In these letters they clearly admitted the charge stating that to save themselves from active cold they have closed the door and slept as there was no other alternative above it. They have also sought apology for it. Thus it is clear case of admission and the orders passed by the respondents are speaking order giving sufficient reasons. The applicants were given every opportunity of hearing by the respondents.

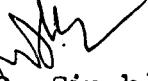
6. We have carefully considered the rival contentions made on behalf of the parties and we find that the applicants were punished with minor penalties and the judgment cited by the applicants of N.K. Saxena (supra) relates to major penalty. Hence the order passed in that OA will not be applicable to the present case. Secondly the applicants themselves have



admitted in writing the said charges levelled against them and there is no allegation of the applicants that these apologies were obtained by the respondents by any threat etc. Hence these admissions shall be deemed as voluntarily made. ^{pro} It is a settled legal position that the Courts/Tribunals cannot reapprise the evidence and also cannot go into the quantum of punishment, unless it shocks the conscience of the Courts/Tribunals. We find that in this case the punishments imposed on the applicants does not shocks our conscience.

7. Accordingly, we are of the considered opinion that the applicants have failed to prove their case and the Original Application does not have any merit. Hence the Original Application is dismissed. No costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman

पृष्ठांकन सं. ८०/८०.....जवाहलपुर, दि.....
परिवर्तीते दो दिनों तक
(1) मी. विजय, विवाह विवाहित, जवाहलपुर
(2) अमर, विवाहित, जवाहलपुर.....के काबंसल *S.D. Khan.*
(3) रामनीत, विवाहित, जवाहलपुर.....के काबंसल *B. danwar*
(4) लक्ष्मी, विवाहित, जवाहलपुर.....के काबंसल *U.P. Singh*
संकाल द्वारा आवाहन कराया गया है।
उपर रजिस्ट्रार

*Ex-Sub
15.11.84*