

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

....

Original Application No. 399/1999

Jabalpur, this the 23rd day of January, 2004

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

Chandras Dixit
s/o Sh. Suresh Chandra Dixit,
L.D.C., GIF-JBP,
R/o 2357/B-Type-II,
Vehicle State,
Sector-(I), Jabalpur.

...Applicant

(By Advocate: None)

- versus -

Union of India through

1. Secretary,
Ministry of Defence,
New Delhi.

2. Chairman,
Ordnance Factory-Board(DGOF),
10-A, S.K.R.B. Road,
Calcutta - 700 001.

3. General Manager,
Grey Iron Foundry,
Jabalpur.

...Respondents

(By advocate: Shri Harshit Patel for Shri S.C.Sharma)

O R D E R

By G.Shanthappa, Judicial Member -

The above O.A. is filed seeking the relief to quash the impugned orders dated 20.07.1998(A/1) and 27.08.1997 (A/6) and further relief for direction to the respondents not to give effect to the said orders.

2. The brief facts of the case are that the applicant was working as L.D.C. He was chargesheeted on 31.12.1996 by the respondents. The charges mentioned in the charge



memo are as follows:-

i) That on 13.12.1996 in evening the applicant went to Cash Office and compelled the management not to make payment. As a result of this, IEs payment could not be made on that day, and again on 14.12.96 applicant did not let the payment made.

ii) That on 14.12.1996 at around 8.00 a.m. the applicant alongwith his colleagues compelled the other employees of Admn. Block to avail two hours short leave, as such the employees remained on short leave for two hours."

3. On receipt of the above chargesheet, the applicant filed his reply on 15.1.1997 denying the charges. The enquiry officer was appointed and the enquiry was in progress. During the pendency of the enquiry, the applicant found some irregularities being committed by the respondents, for which the applicant preferred an appeal dated 20.4.1997. When the appeal was filed the enquiry proceedings was in progress and the same was concluded. But the appeal was still pending. The applicant attended the enquiry and participating by cross-examining the witnesses. The enquiry officer concluded the enquiry and submitted his report a copy of which was also given to the applicant. Based on the findings of the enquiry officer and objections of the applicant, the disciplinary authority passed the impugned order of punishment by reducing the pay by two stages with cumulative effect for a period of two years w.e.f. 27.08.1997 in the time scale of Rs. 950-20-1150-EB-25-1500/-. The applicant preferred an appeal. The appellate authority has also confirmed the order passed by the disciplinary authority and dismissed the appeal presented by the applicant

vide his order dated 20.07.1998 (Annexure A/1).

4. The grievance of the applicant is that the enquiry officer has not followed the procedure of enquiry properly. Though the two charges were not proved, the enquiry officer concluded the enquiry holding the charges proved.

5. The disciplinary authority has not considered the mistake committed by the enquiry officer. Hence the enquiry report as well as the order passed by the disciplinary authority are illegal and violates the principle of natural justice.

6. The applicant has taken the ground in the appeal before the appellate authority about the mistake committed by the enquiry officer as well as the disciplinary authority. The appellate authority has also not considered the case of the applicant and dismissed the appeal without going into the merit of the case. Hence, the order of the appellate authority is not a speaking order and the same is liable to be set aside.

7. Per contra the respondents have filed their reply contending that there is no illegality or irregularity committed by the enquiry officer, disciplinary authority and the appellate authority. The specific case of the respondents is that the applicant had denied the charges before the enquiry officer on 20.02.1997 and alongwith his Defence Assistant inspected the documents relied upon by the Management for proving the alleged misconduct. On 21.2.1997, the applicant cross-examined the prosecution witness no. 1. on 3.7.1997 the applicant specifically

submitted that he desires that the enquiry should proceed and he would defend himself in the enquiry. On number of occasions the applicant appeared before the enquiry officer, ~~who was conducting the enquiry~~. At this stage, it is not proper for the applicant to state that no opportunity was afforded to him to cross-examine the witness and the procedure adopted by the enquiry officer is illegal. There is no illegality or irregularity committed by the respondents and the appellate authority has rightly passed the impugned order. Therefore, the original application is liable to be dismissed. The respondents have also relied upon the judgement of this Tribunal rendered in OA No. 897/1998 on 11.2.2003 in which the facts are similar and the Tribunal rejected the said O.A. Since the cited judgement rendered in OA897/88 covers the present case, the present O.A. is also liable to be dismissed.

8. We have heard the learned counsel for both the parties and have carefully perused the pleadings on record as well as the order of this Tribunal passed in OA No. 897/98 on 11.2.2003.

9. The admitted facts are that the applicant was served with two chargesheets and he has submitted his objections to the charges and the enquiry proceedings have been initiated against the applicant. The applicant has cross-



examined the witnesses and the necessary documents were supplied to him. The enquiry officer has given ample opportunity to the applicant. Subsequently, the enquiry report was also supplied to him. The applicant submitted his objections to the enquiry report. On the basis of the findings of the enquiry officer, the disciplinary authority ^{has} passed the impugned order of punishment. The case of the applicant is that as per enquiry report, only one charge stood proved but in fact the applicant was not present in the Cash Office at the alleged time on 14.12.1996 as he was busy in doing urgent work in his table. The applicant's non-presence has been stated by DW-1 Shri B.L.Prasad, who is the Head of the Section. The applicant has cross-examined the said witness before the enquiry officer. Only one of the charges has been proved and on that basis the disciplinary authority has passed the impugned order by exercising his powers. As per the enquiry report, the applicant interacted with AGM/P on the subject of stoppage of work and for going on mass short leave in his office as a part of delegate team of the agitators. Similarly, as per the documentary evidence in the form of report from WM/A, it is seen that a group lead by Shri Purshottam, Shri Bharat Narayn and Shri Chandrahas Dixit (applicant) came to Cash Office and told the staff not to make the payment. The presence of Shri Dixit i.e. applicant amongst the agitators is proved by the oral evidence of PW1 to PW3 on both the occasions

of agitation i.e. in the afternoon of 13.12.1996 and at around 12.00 noon on 14.12.1996. The presence of the applicant was proved and he was agitating in the said illegal activities. One Shri B.N.Sonkar was also present alongwith the applicant who was also punished by the disciplinary authority. Hence, we are satisfied that no illegality or irregularity has been committed by the enquiry officer ^{while} ~~whilding~~ ^{sp} conduced the enquiry.

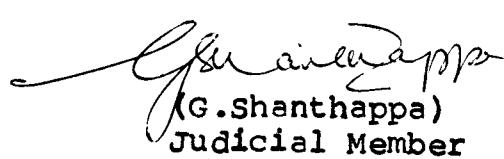
10. The disciplinary authority has considered all the aspects of the case and passed a speaking order assigning reasons while issuing the impugned punishment order. Since the impugned order is a reasoned and speaking order, we do not find any illegality or irregularity in the order of the disciplinary authority.

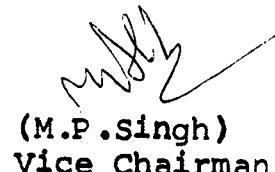
11. We have perused the order of the appellate authority, The appellate authority has also considered the relevant facts and passed a reasoned order on the basis of the facts and grounds urged by the applicant in the appeal. Hence no interference is required in the said order by this Tribunal. On a similar circumstance/incident, the ^{and} ~~sp~~ person, namely, B.N.Sonkar, who was alongwith the applicant was also punished by the disciplinary authority. Aggrieved by that he had approached this Tribunal by filing OA No. 897/98. This Tribunal considering all the facts of that ^{and} ~~sp~~ case dismissed the same on 11.2.2003. Since the facts of the case ⁱⁿ hand are similar to the case in OA 897/98, the present case is fully covered with the judgement

rendered by this Tribunal in OA 897/98.

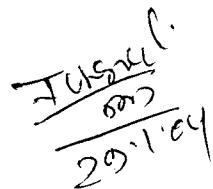
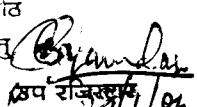
12. Regarding punishment awarded by the authorities concerned, the Tribunal can interfere only when the punishment appears to be shocking or disproportionate. In this regard, we refer to the judgement of the Hon'ble Supreme Court passed in the case of B.C.Chaturvedi vs. Union of India & ors., (1995) 6 SCC 749 and also in the case of State of U.P. Vs. Ashok Kumar Singh & Anr., (1996) 1 SCC 302. The applicant has failed to show as to how the punishment could be categorised as disproportionate and/or shocking. On the contrary, as established in the disciplinary proceedings, the applicant has failed to prove his case. Therefore, the impugned order of punishment cannot be faulted.

13. In the facts and circumstances of the case, we do not find any justification to interfere with the impugned orders of the disciplinary authority and appellate authority. In this view of the matter, this original Application is dismissed without any order as to the costs.


(G. Shanthappa)
Judicial Member


(M.P. Singh)
Vice Chairman

/na/


प्रृष्ठांकन द्वारा/न्या..... जवलपुर, दि.....
प्रतिशिखा अमरी रिटार्न
(1) सनिय, उच्च न्यायालय वाद प्रतिशिखा, जवलपुर
(2) आदेशक श्री/श्रीनी/कु..... के काउंसल Anil Pandey, Ad.
(3) प्रत्यार्थी श्री/श्रीनी/कु..... के काउंसल Harshit Patel, Ad.
(4) व्यापात, कोद्रा, जवलपुर व्यापारीठ
सूचना एवं आवश्यक कार्यवाही देतु 
उप राजस्वाधी
20.1.04