

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Pre-delivery order in O.A. No. 515/98

is sent herewith for consideration pl.

(Signature)
(D.C.Verma)
Vice Chairman(J)

Hon'ble Shri Anand Kumar Bhatt, Administrative Member

20/8/98
5/7
8/7

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

O.A. No. 515/1998

DATE OF DECISION 09th July 03

Abdul Bashir Khan

APPLICANT (s)

Mr. R.K. Gupta

Advocate for the Applicant (s)

VERSUS

Union of India & Ors.

RESPONDENTS

Mr. B. Dasilva

Advocate for Respondents

CORAM :

Hon'ble Shri D.C.Verma - Vice Chairman (Judicial)

Hon'ble Shri Anand Kumar Bhatt - Administrative Member

1. Whether Reporters of local papers may be allowed to see the judgments ? - YES/NO
2. To be referred to the Reporter or not ? YES/NO
3. Whether their Lordships wish to see the fair copy of the judgment ? - YES/NO
4. Whether it needs to be sent to the Principal Bench for circulation to other Benches of the Tribunal ? - YES/NO


(D.C.Verma)
Vice Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL

JABALPUR BENCH, JABALPUR

OA No. 515/1998

Jabalpur, this the 09th July 2003

Hon'ble Mr. D.C. Verma, Vice Chairman (Judicial)
Hon'ble Mr. A.K. Bhatt, Member (A)

Abdul Bashir Khan S/o Late Abdul Jabbar Khan,
Aged 55 yrs. R/o House No. 178, North
Miloniganj, Sherkhan Ka Bada, P.O. Motinala
Mansooribad, Jabalpur.

APPLICANT

(By Advocate - Shri R.K. Gupta)

VERSUS

1. The Union of India,
through the Secretary,
Ministry of Defence, New Delhi.
2. The Ordnance Factory Board,
10-A Auckland Road, Calcutta,
through its Secretary.
3. The General Manager,
Ordnance Factory, Khamaria,
Jabalpur

RESPONDENTS

(By Advocate - B.da.Silva)

ORDER

Per : Hon'ble Mr. D.C.Verma, Vice Chairman (J)
By this OA, the applicant has prayed for quashing
of the penalty order by which the applicant was reduced
to lower post from the Grade of U.D.C. to L.D.C. and has
prayed to restore pay to the higher post and his
seniority be refixed on the promotion post from the date
of his promotion.

2. The brief facts of the case is that the applicant
was working in Ordnance Factory, Khamaria, Jabalpur. He
was served with a charge memo on 15.3.1990. The charge
against the applicant was that he was holding bogus



punching card unauthorisedly, tampering of section attendance report for pecuniary gain and this conduct was unbecoming of a Government Servant. After the receipt of the reply and consideration thereof, the inquiry report was served to the applicant to submit his representation. Disciplinary Authority, after considering the same, imposed the penalty on 7.4.1993. An appeal was also rejected on 17.7.1995. The review was filed but not decided so the applicant filed the present OA to challenge the orders passed by the Disciplinary Authority and Appellate Authority.

3. The submission of the learned counsel for the applicant is that out of three charges, the charge of holding of bogus punching card unauthorisely was found not establised, by the inquiry officer. The punishment was imposed on the basis of the inquiry officer's findings with regard to two other charges i.e. tampering of the section attendance report for pecuniary gain and this conduct was unbecoming of a Government servant. The submission is that even these charges cannot stand as the applicant was not given proper opportunity to defend his case. We have considered the inquiry officer's report and the statement of the witnesses filed by the applicant. The report shows that full opportunity was given to the applicant and the statement of the witnesses shows that the witnesses were cross examined on behalf of the applicant, at length. Even after re-examination of the witness namely, Mr. B.R. Malik, he was again cross examined on behalf of the applicant. After the case of the departmental evidence, the applicant was afforded, opportunity but he did not produced any defence. Thus, the submission that the

applicant was not afforded any opportunity, has no base. The learned counsel submitted that one of the witnesses namely S.S. Uike has in his statement with regard to entry on 12.11.1989, admitted that the applicant's absence was earlier recorded, but when A.B.Khan i.e. the applicant came after one hour late, the applicant's name from absence was deleted by the witness himself and the applicant put his signature and wrote "1 hour late". Similarly, late arrival was recorded with regard to 20.11.1989. Though it is so this will not absolve the applicant with regard to the entries in respect of other dates. The Tribunal cannot sit in appeal to re-evaluate or marshal the evidence produced before the inquiry officer to come to a finding different from finding arrived at by the inquiry officer and accepted by the Disciplinary Authority. The findings arrived at by the Disciplinary Authority are based on the evidence produced during the inquiry proceedings. It is not a case of no evidence. The applicant during the inquiry while giving a statement has himself admitted that due to personal problems, his mental condition was not proper, so he committed mistakes. The plea taken in the OA is that "Such type of mistakes are happen by a human being and are excusable". The submission of learned counsel for the applicant that the evidence recorded during the inquiry proceedings are not based on the evidence is without basis.

4. Further submission of learned counsel for the applicant is that for the article of charge and conduct for which the applicant has been penalised, the quantum of punishment is excessive. We have considered this aspect, but we are unable to agree with the submission of learned counsel for the applicant that the punishment is so harsh or excessive, which

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requires an interference of the Tribunal. The punishment is not at all shockingly disproportionate, hence, no interference is required.

5. In view of the discussion made above, the OA is devoid of merit and the same is dismissed. Cost easy.

Signature

(A.K. Bhatt)
Administrative Member

Signature

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

NK

प्रठांकन सं ओ/व्या.....जबलपुर, दि.....
परिविवित वर्तमानमेंत्र:-
(1) संकेत, राज्य चालान, वाल रेसिटेन, जबलपुर
(2) गोदान, देवी/देवता, वाल.....के काउंसल
(3) इन्द्रिय, विभिन्न संस्कृति.....के काउंसल
(4) वांथवाल, टोप्रां, गोदान, व्यायापीठ
सूक्ष्मा एवं आवश्यक कार्यवाही हेतु

A.K. Bhatt, M.A
B. dasgupta - M.A

Signature
अम रजिस्ट्रेशन 7-3

Enclosed
10/7/73