

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 564 of 2000

Jabalpur, this the 19th day of August, 2003.

Hon'ble Mr. D.C. Verma, Vice Chairman(Judicial)
Hon'ble Mr. Anand Kumar Bhatt, Administrative Member

Mahatam Singh Raghuvanshi, Aged about
Years, S/o Shri Vishwanath Singh
Raghuvanshi, Ex. T.No. St/400/63146,
Lab.U/S, Ordnance Factory, Khamaria,
Jabalpur (M.P) R/o Bapu Nagar,
(Near Anaganwadi School and infront
of Shrichand Sonkar) Ranjhi,
Jabalpur (M.P.)

APPLICANT

(By Advocate - Shri S.P. Sharma)

VERSUS

1. The Union of India,
Through Secretary, Ministry of
Defence (Production) Raksha Mantralaya
Bhawan, New Delhi.
2. The Chairman,
The Ordnance Factory Board,
10-A, Aukland Road,
Calcutta-700016.
3. The General Manager,
Ordnance Factory,
Khamaria, Jabalpur-482 005
4. Ramesh Kumar Lab'B' OFK T.No. St/15/63314
Ordnance Factory Khamaria Jabalpur.

RESPONDENTS

(By Advocate - Shri S.C. Sharma)

ORDER (ORAL)

By D.C. Verma, Vice Chairman(Judicial)-

By this Original Application, the applicant
has challenged the penalty order by which he has been
removed from service.

2. The brief facts of the case are that the applicant while working as Lab(U/S) in Ordnance Factory Khamaria on 16.10.1990 at about 4.10 p.m. entered into a scuffle with a co-worker Ramesh Kumar over an issue of loan transaction. There scuffle was between the applicant and Ramesh Kumar about the money

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which Ramesh Kumar had allegedly borrowed from the applicant. For the said incident, the applicant and Ramesh Kumar both were served with charge sheets and after enquiries which were held separately for Ramesh Kumar and the applicant, punishments were awarded. Though Ramesh Kumar was given punishment of reduction in pay by two stages of the grade, for a period of one year with cumulative effect, ~~but~~ the applicant was awarded the penalty of removal from service. An appeal against the penalty order was dismissed. Hence the present O.A.

3. The penalty orders have been challenged on various grounds viz. that the finding of the enquiry officer is perverse hence the order impugned deserves to be quashed; ~~that~~ there is no evidence that the applicant ~~was~~ indulged in money lending; that the applicant was not aggressive and the enquiry officer without examining the evidence recorded during the proceedings arrived at a finding against the applicant, hence there was no application of mind; and that though Ramesh Kumar was awarded lesser punishment, the applicant has been awarded the punishment of removal from service. The appellate order has also been challenged on the ground that it is without application of mind and not as per the rules.

4. The respondents in their reply have contested the claim of the applicant and submitted that the enquiry officer followed the due procedure and after recording the evidence of five witnesses came to the conclusion that the evidence against the applicant has proved the articles of charges.

5. Counsel for the parties have been heard at length.



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6. There were three articles of charges against the applicant - (i) having a scuffle with the co-worker inside the factory during working hours; (ii) indulging in money lending inside the factory during working hours; and (iii) conduct unbecoming of a Government servant.

7. We have gone through the statements of the witnesses ~~witness~~ recorded during the enquiry proceedings. The learned counsel for both sides have referred to various paragraphs of the statements. We do not find any evidence to show that the applicant was actually indulging in money lending. The only evidence is that in 1987 the applicant had lent Rs.500/-. The present incidence is of the year 1990. Only one instance of loan cannot make the applicant a money lender. Consequently, the charge that the applicant was indulging in money lending is not proved by an isolated instance of loaning an amount to a co-employee, that too long back in the year 1987. In the circumstance the article of charge that the applicant was indulging in money lending inside the factory is not supported with any evidence and it is a case of no evidence.

8. The other article of charge is of man-handling a co-worker inside the factory during working hours. This charge stands proved. The evidence of all the witnesses show that there was a scuffle between the applicant and Ramesh Kumar. Ramesh Kumar himself is a witness against the applicant. Even if it be taken that Ramesh Kumar is in the status of a co-accused and his statement cannot be accepted, the statements of other witnesses prove that there was a scuffle between Ramesh Kumar and the applicant inside the factory during

working hours. The learned counsel of the respondents submitted that because Ramesh Kumar had borrowed money from the applicant and the money was not paid, hence the applicant was aggressive in the scuffle to realise the money. However, we do not find any iota of evidence on this aspect that the applicant was aggressive. Consequently, the only evidence on record is that there was a scuffle between Ramesh Kumar and the applicant. Thus, this article of charge of man-handling with co-worker inside the factory is fully established. The resultant is that the third charge of conduct unbecoming of a Government servant also stands proved.

9. The next question, therefore, arises is whether for man-handling with a co-worker can the highest punishment of removal from service can be awarded in the circumstances of the present case. It is no doubt that it is for the administrative authority to award punishment and the Courts or Tribunals would normally not interfere with it. However, as has been held in various decisions by the Apex Court that where it shocks the judicial conscious, the Court/Tribunal can mould the relief either by directing the authority to reconsider the punishment/penalty imposed or in exceptional cases by itself imposing an appropriate punishment rendering cogent reasons.

10. We have, therefore, considered the submissions of counsel for the parties. We find that Ramesh Kumar to whom the applicant is said to have lent the money and with whom there was a scuffle ~~and he~~ was also served with a charge memo on three counts. The charges against Ramesh Kumar ~~were~~ (as mentioned in Annexure-R-3) were - (i) man-handling with co-worker inside the factory during working hours, (ii) borrowing money on interest from the

co-worker inside the factory during working hours; and (iii) conduct unbecoming of a Government servant. Thus, the charges against Ramesh Kumar and the applicant were almost similar except that in the case of the present applicant the charge was lending the money and in the case of Ramesh Kumar it is borrowing the money. Ramesh Kumar was awarded, as mentioned earlier, the punishment of reduction of pay by two stages of the grade for a period of one year with cumulative effect and it was also ordered that he will not earn increment during the period of punishment but after the penalty period is over, his pay will be restored to the point from which his pay was reduced, whereas in the case of the present applicant the order of removal has been passed. We would not have interfered with the quantum of punishment but we intend to do so because we find that the charge of money lending against the present applicant is found not substantiated by any iota of evidence. It is also not on record, as discussed earlier, that the applicant was aggressive. Consequently, the only charge is of ~~scuffling~~ between the applicant and Ramesh Kumar, which conduct is unbecoming of a Government servant. Thus, if in the similar circumstances two persons are placed and one is awarded a lesser punishment and there is no reason or circumstances to award higher punishment to the other person, it would amount to arbitrary discrimination and this cannot stand. We, therefore, upheld the punishment order, but we find that the quantum of punishment should be modified.

11. The learned counsel of the applicant has also challenged the appellate order but after going through the details and contents of the order we are of the view that the appellate order is speaking and it suffers

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with no illegality.

12. In view of the discussion made above, we uphold the order of punishment awarded against the applicant by the disciplinary authority and the appellate authority. The penalty of removal is, however, quashed. As far as the quantum of punishment is concerned, we direct the appellate authority to award the similar penalty as was imposed in the case of Ramesh Kumar to the applicant as well. As the penalty of removal has been quashed, the applicant shall be reinstated within a period of one month and shall be given all consequential benefits except back wages. The O.A. is accordingly decided. Costs easy.

Anand Kumar Bhatt
(Anand Kumar Bhatt)
Administrative Member

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

rkv.

पृष्ठांकन सं ओ/ए..... जलालुद्दीन.....
परिलिपि दिनांक.....

- (1) सचिव, उच्च न्यायालय कार्यालय, न्यायालय
- (2) अधिकारी श्री/महिला श्री/महिला काउंसिल
- (3) एवत्यां श्री/महिला श्री/महिला काउंसिल
- (4) कंसिल, दोस्रा वर्ष, न्यायालय

रामकृष्ण द्वारा दोस्रा वर्ष, न्यायालय

S.P. Sharma - 906
S.C. Sharma - 906
26/8/03

*Issue of
26.8.03
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