

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 589 of 1999

Jabalpur, this the 2nd day of December, 2003

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

K.L. Chauhan, aged about
55 years, S/o. Shri A.D. Chauhan,
Chargeman Grade II (NT),
A.P.S. Section, Vehicle Factory,
Jabalpur, R/o. 113, Alok Nagar,
Adhartal, Jabalpur (MP).

... Applicant

(By Advocate - Shri S. Nagu)

V e r s u s

1. Union of India,
through the Secretary,
Department of Defence
Production, Government of
India, South Block, New Delhi.
2. Chairman, Ordnance Factory
Board, 10-A, Shaheed Khudiram
Bose Road, Calcutta - 700 001 (WB)
3. General Manager,
Vehicle Factory,
Jabalpur (MP).

... Respondents

(By Advocate - Shri B. da. Silva)

O R D E R (Oral)

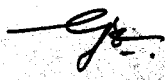
By G. Shanthappa, Judicial Member -

The above Original Application is filed seeking the
main
following/reliefs :-

"(i) The Hon'ble Tribunal be pleased to quash
the impugned order dated 07.03.1997 (A-13) (correct
date is 07.03.1996) and 27.08.1998 (A-18) as being
void, illegal and arbitrary.

(ii) The Hon'ble Tribunal be pleased to declare
that the action of the respondent No. 3 in
dispensing with the enquiry proceedings by treating
Annex A-10 as admission of the applicant to the
charges as opposed to the provisions of law.

(iii) The Hon'ble Tribunal be pleased to direct
the respondents to grant all consequential monetary
and service benefits from back date as a necessary
consequence of relief No. 1."



2. The case of the applicant is that he entered into the service under the respondents in the year 1969 as Labour.

While he was in service on 06.01.1996 he received two damaged ~~driver~~ cabin assembly and instead of immediately bringing it to the notice of his superiors, he reported the same to his superiors after unloading.

3. Since there was a dereliction of duty of the applicant, the respondents had issued the memorandum of charges dated 10.02.1996 vide Annexure A-9. After receipt of the memorandum of charges the applicant submitted his reply dated 19.02.1996 in which he has admitted the charges levelled against him and he has also mentioned that he is not in favour of any court of enquiry. He has further admitted the charge in detail mentioning each and every averment. The relevant portion of the said letter is quoted hereunder :

"(2) In this connection it is submitted that on 6.1.96 two cabins Nos. 1432 and 1421 was brought inside the Fy. In Truck No. CIK 62. Original truck No. MUK 8135 loaded the said material and it was Transshipment in Truck No. CIK-62 where the material was damaged and pitted during the accident/transshipment. (copy enclosed). Track Accident was at ADILABAD.

(3) After unloading the material I observed that S/man 2 Nos. Cabins were in pitted and damaged condition. On seeing the damage condition of the material, I immediately informed QAV representative Shri Vishnoi, Ch'man/QAV. Thereafter, I also talked DGM/S-2 (Shri Kureel) on telephone and informed him about the damaged condition of the two cabins. DGM/2 directed me to write in the challam ... the condition of the material and also to obtain a statement of Truck Driver who brought the material inside the Fy. as well as inform QAV representative. As advised by DGM/S I have remarked in the challan No. 000886 dt/28/12/95, LR No. 40685678, IGP No. Mo 1176, dt. 6/1/96 that the two cabins were in pitted and damaged condition (copy enclosed) A written statement of the truck Driver was also obtained in this regard (copy enclosed). Again I personally informed QAV representative. I also recorded the damaged condition of the material in the Daily Receipt Register. You however may kindly appreciate from the above position that I had no malafied intention ... above please."



4. On the basis of accepting the charge, the disciplinary authority has passed the order dated 07.03.1996 vide Annexure A-13 and considering the explanation of the applicant imposed on him the penalty of with-holding of 2 increment, when next due, for a period of two years with cumulative effect. The applicant preferred an appeal, being aggrieved by the said order vide Annexure A-15, to the appellate authority. In the appeal memo he has also accepted the charge and prayed that since he has admitted his charge a lenient view may be taken and the proceedings may be dropped. The appellate authority has passed the order considering the case of the applicant and confirmed the order of the disciplinary authority.

5. The further case of the applicant is that since the punishment is major, ~~major~~ though he has admitted the charge, the respondents have failed to hold the enquiry to prove the charges levelled against him. The impugned action of the respondents is illegal in view of the orders of this Tribunal of Ernakulam Bench reported in (1991) 17 ATC 427-K.E. Vavichi Vs. Senior Superintendent of Post Offices, Palghat and 4 others and also the judgment of the Hon'ble Supreme Court in Jagdish Prasad Vs. State of Madhya Pradesh reported in AIR 1961 SC 1070. Though the applicant has admitted the charge it was the duty of the respondents to hold an enquiry and prove the charge and then pass the orders. Since the respondents have failed to conduct an enquiry, they have violated the principles of natural justice. The charge levelled against him should be quashed and consequently the order passed by the disciplinary authority and the appellate authority is also liable to be quashed declaring that there was no charge levelled against the applicant.

Efs.

6. Per contra the respondents have filed detailed reply contending that the applicant was suspended and charge sheeted under Rule 14 of the CCS (CCA) Rules, 1965 for gross misconduct-negligence/derelection to duty with malafide intention-conduct unbecoming of a Government servant, vide memorandum dated 10.02.1996. The applicant has accepted the charge vide his statement dated 19.02.1996 and he did not demand any court of enquiry as directed under Rule 14 of the said rules. The applicant requested the disciplinary authority to revoke his suspension as he was facing financial hardship and had assured that he would be more careful while discharging the official duties in future. Accordingly the disciplinary authority after considering the reply to the memorandum of charge revoked the suspension and on considering the gravity of the charges imposed the penalty of withholding of two increments when next due with cumulative effect. The appellate authority has considered the appeal and passed the speaking order as the applicant himself has admitted the charge and there was no question conducting an enquiry. The action taken by the respondents is proper and there is no violation of principles of natural justice. Hence the OA is liable to be dismissed. The decision referred by the applicant are not relevant in this case. The facts in the said referred judgment and the facts of the present application are different. Hence the relief claimed in the OA ^{can} ~~is~~ not ~~liable~~ ^{gr.} ~~gr.~~ be granted.

7. After hearing the advocate for the applicant and the advocate for the respondents and after perusal of the pleadings and documents on record, we have decided the above

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case finally.

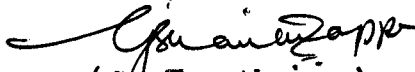
8. The admitted facts are that the charge memo was issued by the respondents for the dereliction of duties of the applicant. After receipt of the memorandum of charge the applicant submitted his reply admitting his charge in detail extracting the charge levelled against him. Even after admitting the charge the applicant has urged for holding the enquiry to prove the charge, which has no force. Hence the contention of the applicant is rejected. In the appeal memo the applicant has not stated anything above the legal contention in support of his case. The appellate authority has considered and confirmed the orders by passing a reasoned and speaking order. Since the respondents have not violated the principles of natural justice, hence the applicant has failed to prove his case.

9. The substantial question of law is, whether on admitting the charge the enquiry is ^a must or not? The applicant has cited the judgment of the Ernakulam Bench (supra) in which there were two articles of charges. Though there was admission of charge in the said case, the OA was allowed in view of the judgment of the Hon'ble Supreme Court in Jagdish Prasad (supra).

10. In the present case the charge is one and the question of admitting by vague does not arise. ⁱⁿ the reply at Annexure A-10, ^{the} applicant has specifically admitted each and every word of charge. Hence conducting ^{of} the enquiry does not arise. The facts of the said judgment and the present case are not similar. Hence the said judgment is not applicable to this case.

lp

11. The applicant has failed to prove his case for grant of any reliefs as prayed in the OA and the action taken by the respondents is proper. Accordingly the Original Application is dismissed. No costs.


(G. Shanthappa)
Judicial Member


(M.P. Singh)
Vice Chairman

"SA"

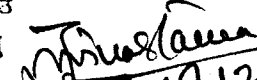
पूठांकन सं ओ/न्या.....सहायपुर, दि.....

(1) श्री....., जालपुर

(2) श्री.....के काउंसल


(3) श्री.....के काउंसल

(4) वसुधैव कुटुम्बकम् जालपुर न्यायपीठ
रचना एवं आवरणके कार्यवाही हेतु


उप-समिति 18/12/03

Shri S. Nagle Adv. JBP.

Shri B. de Silva Adv. JBP.


11/12/03