

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH
CIRCUIT AT INDORE

O.A. NO.630/1998

Indore, this the 14th August, 2003.

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

HON'BLE SHRI R. K. UPADHYAYA, MEMBER (A)

Tej Kunwar Chauhan S/o Balwant Chauhan,
R/O Subhash Chowk, Mhow Gaon,
Teh. Mhow, Distt. Indore. ... Applicant

(By Shri C.B.Patne, Advocate)

-versus-

1. Union of India through
Secretary to Govt. of India,
Ministry of Defence, New Delhi.
2. Appellate Authority,
Military Training Directorate,
General Staff Branch,
MT-7, Army Headquarters,
New Delhi.
3. The Commandant,
College of Combat, Mhow,
Teh. Mhow, Distt. Indore. ... Respondents

(By Shri Vivek Saran, Advocate)

O R D E R (ORAL)

HON'BLE SHRI SHANKER RAJU, MEMBER (J) :

In view of the decision of the Apex Court in
Union of India v. Kulamany Mohanty, 1999 SCC (L&S) 283
and also in view of the provisions of Rule 27 of the
C.C.S. (C.C.A.) Rules, 1965, it is mandatory upon
the appellate authority to record a finding regarding
proportionality of punishment. Though the applicant
has taken a specific plea which has been reflected
in the contentions described in the appellate order,
yet no finding has been recorded by the appellate
authority as to the proportionality of the punishment.

2. In our considered view such a finding is mandated particularly when this Court has no jurisdiction to substitute the punishment in the light of the settled position of law.

3. After hearing both the parties, the O.A. is partly allowed. The appellate order is quashed and set aside. The matter is remanded to the appellate authority to consider the proportionality of the punishment and thereafter pass a reasoned and speaking order within three months from the date of receipt of a copy of this order. Other legal pleas are left open.

4. The OA is disposed of in the above terms.
No costs.

R. K. Upadhyaya

(R. K. Upadhyaya)
Member (A)

/as/

S. Raju

(Shanker Raju)
Member (J)

प्रठाक्षण यां अमेरिका.....जयललु, दि.....
प्रतिनिधि अमेरिका:-

- (1) अमेरिका द्वारा ज्यायालय वार एमोगाल, जयललु
- (2) अमेरिका द्वारा द्वितीय वार एमोगाल, जयललु
- (3) अमेरिका द्वारा द्वितीय वार एमोगाल, जयललु
- (4) अमेरिका द्वारा द्वितीय वार एमोगाल, जयललु

सूचना एवं आवश्यक कागजात, द्वारा

C.P. Practice, P.C. Inclose
C.P. Practice, P.C. Inclose
✓ Sasan, Inclose

L.K.Y.
रजिस्ट्रर
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2/9/83
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