

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 )  
Member (A)


  
( Shanker Raju )  
Member (J)

/as/

पूरांकन सं अं/नं.....जबलपुर, दि.....  
प्रतिनिधि अवधि:-

- (1) जज, उच्च न्यायालय वार एडवोकेटजन, जबलपुर
- (2) जज, उच्च न्यायालय/..... के काउंसल
- (3) जज, उच्च न्यायालय/..... के काउंसल
- (4) जज, उच्च न्यायालय/..... के काउंसल

C.P. Pathe, P.C. Indore  
✓ Sasan, Indore

  
रजिस्ट्रार  
2-4-83

Issued  
2-9-83  
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