

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 66 of 1999

Jabalpur, this the 12<sup>th</sup> day of September, 2003

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

Ashok Kumar Salunkey,  
aged about 48 years,  
S/o. Shri N.R. Salunkey,  
Chargeman Gde II (Technical)  
Marketing Section, Vehicle  
Factory, Jabalpur (MP)  
R/o. House No. 237, Village  
Sohagi, Opposite Agriculture  
Engineering College, Post Maharajpur,  
Jabalpur (M.P.).

... 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. Director General Ordnance  
Factories, Ordnance Factory  
Board, 10-A, Shaheed Khudiram  
Bose Road, Calcutta.
3. General Manager,  
Vehicle Factory,  
Jabalpur (MP).

... Respondents

(By Advocate - Shri P. Shankaran holding brief of Shri  
S.C. Sharma)

O R D E R

By Anand Kumar Bhatt, Administrative Member -

This Original Application is for quashing the  
punishment order dated 08.06.1996 (Annexure A-10) and the  
appellate order dated 17.12.1997 (Annexure A-13).

2. The facts of the case in brief as per the applicant  
are that the applicant worked on a Sunday on 24.04.1994 from  
8.00 AM to 12.00 Noon and therefore he was entitled to avail  
half day leave or short leave within a month. The applicant

availed for the short leave on 27.04.1994 from 10.30 AM to 12.30 PM. He was supposed to return back to work after lunch but he could not return on account of the illness of his son. As per the applicant this fact was intimated on telephone to the Head of the Section. The applicant was suspended on 05.05.1994 and a charge sheet was issued on 11.07.1994, (Annexure A-2) for amending the official documents and unauthorisedly absenting from duty after lunch. After enquiry the punishment of reduction in pay by one stage from <sup>Rs.</sup> 2050-3000/- in the time scale of pay Rs. 1400 2300/- with cumulative effect for a period of one year was given. The appeal filed by the applicant was rejected on 17.12.1997 (Annexure A-13). The learned counsel for the applicant pointed out that his absence was later on regularised by the competent authority.

3. The main ground taken by the applicant are that he had no <sup>not</sup> ~~had~~ intention to return to work after lunch on 27.04.1994, but it was only because of illness of his son, that he could not return to work after lunch and he had duly informed the Section head.

4. On the other hand the respondents have stated that the gate pass was first made for two hours' short leave on 26.04.1994 from 1500 to 1700 hrs. but later it was got amended for 27.04.1994 from 10.30 AM to 12.30 PM. He got the gate pass collected on his own and got it signed by the head of the section, whereas the correct procedure was that the card had to be cancelled and a new card has to be made. On 27.04.1994 he did not return after lunch and therefore he was proceeded against the same. There is no legal infirmity in the orders passed by the disciplinary authority and the appellate authority and they do not require interference by the Tribunal. No ground has been made out so

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as to call for any interference with the said orders. The learned counsel for the respondents Shri Shankaran also cited a ruling of the Apex Court in the case of Maan Singh Versus Union of India and others reported in (2003)3SCC464, wherein it has been held that if an employee has been proceeded against for absence from duties and dismissal order has been passed for unauthorised absence with a direction that the period of absence will be treated as leave without pay, such treatment of the absence period will not vitiate the dismissal order. Shri Shankaran stated that mere fact that the unauthorised absence was later on regularised does not in any way vitiate the action taken against the applicant.

5. We have heard the learned counsel for both the sides and have gone through the pleadings carefully.

6. There is no denial of the fact that on 27.04.1994 the applicant went on short leave from 10.30 AM to 12.30 PM, but did not come back after lunch. The averment by the applicant that this was informed to the Section Head is not supported by the initial statement given by the Section Head R.L. Mahajan (Annexure R-1). This is admitted fact that the applicant could not come back after lunch. Even in the examination of R.L. Mahajan before the court of enquiry on 21.08.1995, ~~22.08.1995 and 30.08.1995~~ this fact did not come out <sup>even</sup> and <sup>in</sup> cross-examination on 21.08.1995, ~~and~~ <sup>and 30.8.95</sup> 22.08.1995 of Shri R.L. Mahajan the fact that the Section Head was informed has not come out as is clear from the enquiry file of the applicant. As for the quantum of punishment it is beyond the scope of the Tribunal to interfere with it, once the mis-conduct is established.

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7. In the result the Original Application is dismissed.

No costs.

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(Anand Kumar Bhatt)  
Administrative Member

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

पृष्ठान्न सं ओ/व्या.....जबलपुर, दि.....  
प्रतिलिपि अद्योक्षित:-

"SA" (1) सचिव, उच्च न्यायालय द्वार एस्टेतिशियन, जबलपुर  
(2) आवेदक श्री श्रीमती -

(3) पत्न्या श्री/श्रीमती/कु. .... के काउंसल

(3) प्रत्ययी श्री/श्रीमती/कु.....के काउंसल

(4) गंधार, कं.प्र.अ., जलन्धर न्यायपीठ

सूचना एवं आवश्यक कार्यवाही हेतु

Received  
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