

Original Application No. 657/2000

Jabalpur, this the 11th day of February, 2004

Hon'ble Shri M.P.Singh, Vice-Chairman
Hon'ble Shri G.Shanthappa, Member (J)

Kamaljit Hora s/o Sh. H.L.Hora,
Occupation - Service,
Junior Machine Operator,
Bank Note Press, Dewas (MP).

...Applicant

(By Advocate: Shri Manindra Bhatti)

-versus-

1. Union of India through
Secretary,
Ministry of Finance,
New Delhi.
2. General Manager-cum-Appellate Authority,
Bank Note Press,
Dewas (MP).
3. Dy. General Manager-cum-disciplinary Authority,
Bank Note Press,
Dewas (MP).
4. Shri A.L.Datar,
Enquiry Officer-cum-Asstt. Engineer (C)(Retd.),
Bank Note Press,
Dewas (MP).

...Respondents

(By Advocate: Shri B.da.Silva through Sh. Anand Singh)

O R D E R

By G.Shanthappa, Judicial Member -

The above application has been filed by the applicant seeking to quash the impugned order dated 21.2.1999 (A/25) passed by the disciplinary authority and order dated 13.7.2000 (A/27) and further relief to quash the entire enquiry proceedings as the principles of natural justice have been violated.

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2: The brief facts of the case are that the applicant was served with a chargesheet dated 4.6.1994(Annexure A/10), against which he had submitted his representation denying the charges levelled against him. The enquiry officer has been appointed to enquire into the charges. The applicant participated in the enquiry proceedings and defended his case himself. The ground urged in the enquiry proceedings is that the document asked for by the applicant was not supplied to him, therefore, the enquiry proceedings is vitiated. The enquiry officer had conducted the fulfilled enquiry, without supplying the required document to the applicant, and submitted his report proving the charges levelled against the applicant. The copy of the enquiry report was supplied to the applicant, against which he has submitted his representation.

3. The disciplinary authority, without considering the objections submitted by the applicant, passed the impugned order imposing the penalty of reduction in the salary of the applicant with non-cumulative effect by three increments. The withholding of increment was to remain in force for a period of three years and six months from 1.3.1999. The said order of the disciplinary authority is illegal, violative of the principles of natural justice and is liable to be quashed on the ground of non-consideration of lacunae in the enquiry proceeding as well as non-supply of required document to the applicant.

4. Aggrieved by the said order of the disciplinary authority, the applicant has preferred an appeal before the appellate authority. The appellate authority has also not considered the grounds urged by the applicant in his appeal and passed the impugned order dated 13.7.2000(A/27) confirming the orders of the disciplinary authority. Hence, the order passed by the appellate authority is also liable



to be quashed.

ex 5. Aggrieved by the above acts of the respondents, the applicant has filed the present O.A. for seeking the aforesaid reliefs.

ex 6. The respondents have filed their detailed reply denying the averments made by the applicant in the O.A. and supporting their action. According to the respondents, the applicant was unauthorisedly absent from 22.6.1991 to 6.1.1994 without prior intimation. The applicant had submitted a representation to the authorities concerned with a request that since he was suffering from Pulmonary Tuberculosis, he may be allowed light work. For that, the authorities has issued the order dated 22.6.1991 (A/2) informing him that his representation has been considered and he has been allowed to join the duty to give maximum extension of their cooperation for providing light work. But it is not possible to provide light work everyday as the work relating to the post of Junior Operator held by the applicant is of responsible nature and essentially to be attended to in the Int. Printing Machine. Even after receipt of the said order, the applicant did not choose to join his duties rather kept on sending the medical certificates. Hence, the chargesheet was served on the applicant. Since the applicant has submitted a representation in pursuance of the chargesheet denying the charges, the enquiry officer was appointed. The enquiry officer has conducted the fulfilled enquiry by serving the available documents sought by the applicant. The respondents had cross-verified the medical certificate, which was sought by the applicant, with the said Doctor who has informed the authorities that the earlier medical certificate is not correct and the applicant was fit for duty. The only document which was not supplied to the applicant, did not prejudice the case of the applicant. The applicant was allowed to cross-examine the witnesses on all the date of

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hearings he had attended the enquiry to defend his case. Subsequently, the applicant submitted his representation in pursuance to the enquiry report. After considering all aspects of the case including the nature of ailment of the applicant, the disciplinary authority passed a reasoned and considered order. The applicant, from the date of receipt of the order dated 22.6.1991, has not produced any kind of document to show that he was sincere to his duties as he did not attend to his duties. Further, he has not given any explanation to this effect. He has taken the treatment from a private doctor instead of approaching the Government doctor as per prescribed rules and instructions in this regard. The disciplinary authority has considered all the facts of the case and passed the impugned order of penalty by exercising powers vested in him. Hence, there is no violation of any rule or principles of natural justice. Being aggrieved by the said order of the disciplinary authority the applicant has preferred an appeal. The appellate authority after taking into consideration the grounds urged by the applicant in his appeal, rejected the appeal by passing a considered and reasoned order and confirming the order passed by the disciplinary authority. There is no illegality and irregularity committed by the respondents in passing the impugned orders. Hence, the O.A. is liable to be dismissed.

ex 7. We have heard the learned counsel for the parties and have carefully perused the pleadings and other materials available on record.

ex 8. The charge levelled against the applicant is in respect of unauthorised absence from 22.6.1991 to 6.1.1994. The chargesheet was served on the applicant against which the applicant has filed a representation denying the charges

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levelled against him. Subsequently, the enquiry officer was appointed who had given a reasonable opportunity of hearing to the applicant to participate in the enquiry proceedings. The relevant portion of the proceedings in the enquiry dated 8.12.1996 (A/14) which the applicant has relied upon is to the effect that the enquiry officer has not supplied the document listed at serial no, 5 in the list of document, which reads as under:-

" प्रेसिडेंट डिक्जिन मेडीकल बोर्ड, उज्जैन का पत्र क्र. स. रिम/94/1594/8, दिनांक 8.2.94 का रिपोर्ट प्रतिलिखन सहित।"

9. The only ground urged by the applicant is that the document asked for was not supplied to him and the disciplinary authority has not considered the nature of disease and also the medical certificate submitted by him issued by the doctor concerned. Hence, the entire proceedings was liable to be quashed and set aside. But the fact is that the doctor, who had issued the medical certificate, stated during the enquiry proceedings that the applicant was fit for duty. There is no iota of symptom regarding pulmonary tuberculosis and on that basis the enquiry officer has concluded his enquiry and submitted his report with findings that the charges are proved. The disciplinary authority has considered the enquiry report and also the representation made by the applicant and passed the order dated 22.2.1999. After going through the order passed by the disciplinary authority, we are convinced that the said authority has considered all the aspects of the case of the applicant including the contents of the representation submitted by the applicant while passing the order. Since the applicant was on unauthorised absence without informing the authorities



for more than four years, the authorities have no other way but to pass the orders of penalty of reduction in salary of the applicant with non-cumulative effect by three increments which was to remain in force for a period of three years and six months from 1.3.1999. We do not find any illegality and irregularity committed by the respondents.

9/10. We have also carefully gone through the orders passed by the appellate authority. It is seen that the appellate authority by exercising powers vested in him considered the grounds urged by the applicant and passed a reasoned order rejecting the appeal and confirming the orders of the disciplinary authority. Hence, no illegality or irregularity is seen to be committed by the appellate authority.

11. We have carefully examined the proceedings of the enquiry and also the impugned orders passed by the disciplinary authority as well as appellate authority. We are convinced that the respondents have followed the prescribed procedure and rules for holding the enquiry and also exercised powers vested in them while passing the impugned orders. When the applicant has no respect to his duties as he simply left the office without informing the authorities for more than four years, the imposition of penalty is proper. The conduct of the applicant does not permit us to ask the respondents to pass a particular kind of punishment when the procedure has been properly followed and no irregularity or illegality have been committed by the respondents. This view of ours^{is} supported by the settled position of law laid down by the Hon'ble Supreme Court in various judgements that the Tribunal cannot reappraise the evidence and also cannot go into the quantum of punishment.

12. For the reasons stated above, the O.A. is bereft of



merit and is accordingly dismissed with no order as to costs.

G. Shanthappa
(G. Shanthappa)
Judicial Member

M.P. Singh
(M.P. Singh)
Vice-Chairman

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M. Bhatti
B. Deylva.

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