

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 72 of 2000

Jabalpur, this the 16th day of February, 2004

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

Smt. Vimala Patel, UDC,  
PNO 6955598, Central Ordnance  
Depot, Jabalpur, W/o. Shri  
A.N. Patel, aged 55 yrs., R/o.  
H. No. 941, Cherital, Jabaipur.

... Applicant

(By Advocate - None)

V e r s u s

1. The Union of India, through the  
Secretary, Ministry of Defence,  
DHQ, P.O. New Delhi 110011.
2. The Director General, Ordnance  
Service, Master General of  
Ordnance Branch, Army Head Quarters,  
DH PO, New Delhi.
3. Officer-in-charge, Army  
Ordnance Corps Records Post Box  
No. 3, Trimulgherry P.O.  
Secunderabad 500015.
4. The Commandant, Central Ordnance  
Depot, Jabalpur.

... Respondents

(By Advocate - Shri P. Shankaran)

O R D E R (Oral)

By M.P. Singh, Vice Chairman -

By filing this Original Application the applicant has  
sought the following main reliefs :

"(1) an order as suitable against the respondents  
restraining them from enforcing the order of disciplinary  
authority and the concurrence and up holding the orders  
of appellate authority for imposing penalty of  
"Reduction of pay by three stages in the pay of the  
applicant for a period of three years; may kindly be  
issued as the same is violative of the Constitution of  
India.

(2) an order as necessary for restoration of the  
pecuniary losses may kindly be issued against the  
respondents for setting aside the impugned orders  
Annex. 1, 2 & 6 in various allowances entailing natural  
justice arising out of the impugned orders.

*WJL*

(3) an order quashing the orders Annex. 1, 2 & 6 directing the respondents to pay her salary in the pay scale for which she is entitled at the appropriate stage as she was being paid before the imposition of punishment of reduction in pay, and she be also paid all increments, HRA, and other differences of benefits and allowances, along with arrears thereof till date."

2. The brief facts of the case as stated by the applicant are that the applicant while working as UDC, was issued with a charge sheet dated 9th March, 1986 by the respondents. The Disciplinary authority vide order dated 30th December, 1989 imposed the penalty of reduction of pay by three stages in the pay scale of Rs. 1200-30-1560-EB-40-2040/- for a period of three years. It was further directed that the applicant will not earn increment of pay during the period of such reduction and this reduction will have the effect of postponing the future increments of her pay on expiry of the period for which the penalty is awarded. Challenging this order the applicant has filed earlier OA No. 749/1991. The Tribunal vide its order dated 17th June, 1999 has passed the following order :

"4. The perusal of the records would reveal that no gross misconduct has been established. As per Enquiry Officer, the guilt of the applicant is only in respect of certain dereliction of duties. While keeping in view the facts and circumstances of the case, the profile of applicants' earlier activities and the law laid down on the subject, we are of the considered view that the matter could be remanded back to the appellate authority to consider the applicant's appeal dated 21.2.1990, reconsider the gravity of the charges levelled and established and modify the punishment, if the appellate authority is so advised based on merit of the case."

The Tribunal has considered the case on merit and it was/on only the ground of quantum of punishment that the appellate authority was directed to modify the order of the penalty, if the appellate authority is so advised based on merit of the case. In pursuance of the direction of the Tribunal the appellate authority has passed the order dated 7th December, 1999, whereby the appeal of the applicant has been rejected on merit and the order passed by the disciplinary authority

*[Handwritten signature/initials]*

has been confirmed.

3. None for the applicant. Since it is an old case of 2000, we propose to dispose of the Original Application, by invoking the provisions of Rule 15 of CAT (Procedure) Rules, 1987 and after hearing the learned counsel for the respondents.

4. The learned counsel for the respondents has stated that the charge levelled against the applicant has been partly proved. It was because of her negligence that there was a loss/ of Rs. 99,495/- to the Regimental Fund (Labour Welfare Fund). Therefore the case of the applicant was earlier considered on merit. It was only on the ground of quantum of punishment that the case was authority remitted back to the appellate authority. The appellate authority has considered the case on merit and has confirmed the penalty imposed on the applicant by the disciplinary authority. Thus the direction of the Tribunal have been implemented. In view of the judgment of the Hon'ble Supreme Court in the case of Union of India Vs. Kulamoni Mohanty and others, AIR 1999 SC 2114, the Tribunal cannot go into the quantum of punishment. In the aforesaid judgment the Hon'ble Supreme Court has held that the "punishment of compulsory retirement imposed on employee on grounds of having committed breach of trust of amount payable to another employee - Tribunal found on facts, that finding regarding commission of breach of trust is based on material - Tribunal not disturbing said finding, but interfering with quantum of punishment - Commits illegality - Punishment imposed neither excessive nor disproportionate - Tribunal cannot interfere with quantum even with discretionary powers.....

5. We have considered the submission made by the learned counsel for the respondents and have perused the pleadings. We find that this is a second round of litigation. The case has already been considered by the Tribunal in the earlier OA No. 11/2000.

749/1991 and the Tribunal vide its order dated 17th June, 1999 remitted the case back to the appellate authority on the ground of quantum of punishment. The appellate authority in pursuance of the direction of the Tribunal has considered the case on merit and has passed the order dated 7th December, 1999 which is under challenge. In view of the judgment of the Hon'ble Supreme Court quoted above this Tribunal cannot decide the quantum of punishment. It is an admitted fact that partially the charge has been proved as due to negligence of the applicant a loss of Rs. 99,495/- was caused to the Regimental Fund (Labour Welfare Fund). We cannot therefore interfere with the orders passed by the appellate authority.

6. Accordingly, the Original Application is bereft of any merit and the same is dismissed. No costs.

*G. Shanthappa*  
(G. Shanthappa)

Judicial Member

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

"MSA" वृक्षांकन से ओ/व्हा..... जलपुर, दि.....  
प्रतिलिपि। दाता/दाता/—

(1) सचिव, उच्च व्यापार विभाग, जलपुर, जलपुर  
(2) अधिकारी श्री/मि/मि/कु..... के काउंसल R.K. Chandra  
(3) प्रधार्यी श्री/मि/मि/कु..... के काउंसल P. Chander  
(4) व्यापाल, कोपाल, जलपुर १०००००  
सूचना एवं अवश्यक कार्यकारी

*Parimalas*  
उपराजिकार २४/२/०४

*Tussuk*  
3/2/04  
23/2/04