

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 821/2000

Jabalpur, this the 7th day of May, 2004

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

K.N.Chaturvedi s/o Sh. M.L.Chaturvedi,
aged about 46 years,
Ex-Electrician, Ticket No. 3336/713/
P.M.-4, GIF, Jabalpur.
Teh. & Distt. Jabalpur (MP).

...Applicant

(By Advocate: None)

-versus-

1. Union of India through
Secretary,
Ministry of Defence,
Rakshi Bhawan,
New Delhi.

1A. The Ordnance Factory Board,
through its Chairman,
10-Shaheed K.Bose Road,
Calcutta - 1.

2. The General Manager,
Grey Iron Foundary,
(GIF), Jabalpur.
Distt. Jabalpur (MP).

...Respondents

(By Advocate: Shri P.Shankaran)

O R D E R

By Madan Mohan, Member (Judicial):

By filing this original application, the present applicant has sought the following main reliefs:-

"a. That the entire departmental action against him including the appellate order Annex.A/7, the punishment order Annex.A/3 and the chargesheet Annex.A.2 may kindly be quashed together with awarding all consequential service benefits to the petitioner."

2. The brief facts of the case are that the applicant was working as an Electrician in the GIF, Jabalpur. One Mr. P.K. Shrivastava was Chargeman. On 12.8.1998 the applicant was present and worked for the whole day. On 14.8.1998 the said Chargeman issued the applicant a Memo for non-payment for 12.8.1998 on account of 'NO WORK NO PAY'. When the applicant asked said



Shri Shrivastava that why his pay was being deducted, Mr. Shrivastava, who was having ill-will against the applicant, started scolding and attempted assault on him. At the same time one Shri P.C.Borle, Chargeman Gr.II gave the applicant severe beating. The applicant immediately reported the matter by filing a complaint (Annexure A-1) The two superior officers manoeuvred the things and on one hand no action was taken against him and on the other the applicant was placed under suspension by an order dated 17.8.1998. A chargesheet was issued against the applicant containing totally false and concocted charges. The applicant submitted his reply to the chargesheet. It is contended that without considering the reply of the applicant, one Shri V.K. Gupta, Assistant Works Manager was appointed as Enquiry Officer. The applicant had made complaints for victimisation action even prior to the alleged misconduct and the said applications were not given consideration. On the other hand on a false complaint, the applicant was placed under suspension and a chargesheet was issued to him. This by itself shows the bias attitude and the language of the chargesheet shows pre-determination of mind. The copies of the documents mentioned in the chargesheet were also not provided to the applicant as the enquiry officer was biased against him from the very beginning. The main complainant Mr. P.K. Shrivastava was allowed to remain present from the beginning and objections raised against his presence were deliberately over-looked. The prosecution witnesses were examined who were given undue help during the course of examination. The charges of prosecution despite all this could not be established. Even no document was proved during the course of enquiry yet the enquiry officer submitted a report holding the applicant guilty of the charges.

2.1 The applicant submitted a reply against the same. Yet by an order dated 2.3.2000, a punishment of compulsory retirement was imposed on the applicant by the respondents. The applicant, aggrieved by that, preferred an appeal before



the appellate authority the same was also rejected by the appellate authority vide its order dated 10.7.2000 which was communicated to the applicant on 24.7.2000. The applicant contended that the entire departmental action against the applicant is not sustainable in law as he was not given any opportunity of hearing for defending himself and there is also a clear violation of principles of natural justice. Hence, the applicant has filed the present application for seeking the aforesaid relief.

3. Heard the learned counsel for the respondents. As none is present on behalf of the applicant and the matter being an old one pertaining to the year 2000, we proceed to dispose of the matter by invoking the provisions of Rule 15 of the Central Administrative Tribunal (Procedure) Rules, 1987. However, later on Shri Rajesh Singh Chouhan, learned counsel for the applicant appeared and he was directed to file his written submissions/arguments. Accordingly the learned counsel for the applicant submitted his written arguments, which are taken on record.

4. We have perused the written arguments filed on behalf of the applicant in which it is mentioned that all the impugned orders have been passed in violation of law and against the principles of natural justice. A decision of the Hon'ble Supreme court in the matter of Brij Mohan Singh Chopra vs. State of Punjab reported in AIR 1987 SC 948 has been relied upon. Para 4 of the said judgement reads as under:-

"4. The purpose and object of premature or compulsory retirement of Government employee is to weed out the inefficient, corrupt, dishonest or dead-wood from the Government service. This right of the Government is well established which is generally exercised in accordance with relevant service rules. The scope and ambit of exercise of this absolute power depends on the provisions of Rules and it is always subject to Constitutional limitations....."

One more judgement of the Hon'ble Supreme Court has also been relied upon by the applicant rendered in the case of C.D. Ailawadi vs. Union of India & ors., reported in 1990(4) S.L.R. 240, in which it is held as under:

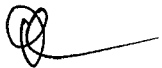
"An aggrieved civil servant can challenge an order



of compulsory retirement on any of the following grounds as settled by several decisions of this Court (i) that the requisite opinion has not been formed; (ii) that the decision is based on collateral grounds; and (iii) that it is an arbitrary decision."....."

5. Learned counsel for the respondents argued that the applicant has not been able to point out any procedural irregularity or legal infirmity in the conduct of departmental enquiry against him. The applicant was chargesheeted by the department and a detailed enquiry as provided under Rule 14 of CCS(CCA) Rules, 1965 was held against him. The enquiry officer submitted his report giving finding that the charges levelled against the applicant have been established. The disciplinary authority acting upon the enquiry report and considering all other aspects of the matter inflicted the punishment of compulsory retirement from service on the applicant. It is further argued that on the basis of evidence on record, the applicant has rightly been held guilty of the charges and punishment has been inflicted upon him looking to the gravity of the charges proved. It is also argued that the applicant's complaint made on 14.3.1998 was carefully examined by the competent authority ^{it was} and found baseless. It is further argued that after considering all the facts, circumstances his past bad record and the enquiry report, it was concluded that the applicant is not a fit person to be retained in Govt. service. However, go give him the financial benefits, a lenient view was taken and the penalty of compulsory retirement from service w.e.f. 2.3.2000 was imposed upon him. Moreover, this is not a case of 'no evidence'.

6. After hearing the learned counsel for the respondents and perusal of the written arguments filed on behalf of the applicant, we find that the applicant was sufficient opportunity of hearing and as such this is not a case of 'no evidence'. It is also a settled legal position by the various pronouncements of the Hon'ble Supreme Court that the Tribunal or Courts cannot re-appraise the evidence and even cannot go into the quantum of



punishment.

7. In the facts and circumstances of the case and in view of the above discussion, we are of the considered view that the present Original Application is bereft of any merit as the applicant has failed to prove his case for the reliefs prayed for, the same therefore deserves to be dismissed. The O.A. is accordingly dismissed with no order as to costs.

(Madan Mohan)
Member (Judicial)

(M.P.Singh)
Vice Chairman

/na/

पृष्ठान्कन सं ओ/न्या.....जबलपुर, दि.....

पलिसिपिथि न्याये विमलः—

(1) रजि. न्या. न्यायपालिका न्या. न्यायपालिका, जबलपुर

(2) आदेशक न्या. न्यायपालिका/न्या. न्यायपालिका के काउंसल RS Chauhan

(3) प्रत्यक्षी न्या. न्यायपालिका/न्या. न्यायपालिका के काउंसल P. Shankar

(4) न्यायपालिका, न्यायपालिका, न्यायपालिका के काउंसल

सूचना एवं आवश्यक कार्यवाही हेतु

उप रजिस्ट्रार

Received
12-5-04