

THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR
ORDER SHEET

ORDERS OF THE TRIBUNAL

25.03.2009

OA No. 94/2009

Mr. P.N. Jatti, Counsel for applicant.

Heard learned counsel for the applicant.

For the reasons dictated separately, the OA is disposed of.


(B.L. KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

AHQ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 25th day of March, 2009

ORIGINAL APPLICATION NO. 94/2009

CORAM:

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER
HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER

Murari Lal Sharma son of Shri Radhey Shyam Sharma by caste Sharma, aged about 50 years. Resident of 113, Krish Nagar, Bharatpur. Presently retired as UDC, Office of Ammunition Depot Bharatpur.

.....APPLICANT

(By Advocate: Mr.P.N. Jatti)

VERSUS

1. Union of India through the Secretary Defence, Government of India, Ministry of Defence, New Delhi.
2. The Director General of Army Ordnance Corps, Master General of Ordnance Branch (OS-OC), Defence Head quarter, New Delhi.
3. The Officer Incharge Officer, Incharge (Records), Army Orders Corps. Ordnance Corps Secunderabad (A.P.) Secunderabad (A.P.)
4. MG ADC – Master General of Army South West Cem. Ordnance Corpos Head quarter, South West Command, Jaipur.
5. The Headquarter 61, Sub Area C/o 56, APO, Jaipur.
6. The Commandent Ammunition Department, Bharatpur (Rajasthan).

.....RESPONDENTS

(By Advocate : Mr. -----)

ORDER (ORAL)

The applicant has filed this OA thereby challenging the order dated 26.08.2006 (Annexure A/3) passed by the Disciplinary Authority, order dated 21.02.2007 (Annexure A/2) passed by the Appellate Authority and order dated 31.05.2008 (Annexure A/1) passed by the Revisional Authority whereby the applicant has been compulsorily retired on account of misconduct which led to his conviction by the Trial Court. In this case criminal appeal is pending before the competent Court. The main contention of the applicant is that since conviction has been stayed by the Hon'ble High

Court on 06.01.2009, as such he may be taken back in service on that basis.

2. We are of the firm view that the applicant is not entitled to relief on this ground. The applicant has been compulsorily retired from service on account of the conduct which has resulted into his conviction by a competent court and not on ground of his conviction. Merely because the conviction has been stayed by the Court in pending appeal subsequently or the Appellate Court has entertained the appeal is by itself no ground to set aside the impugned order as held by the Apex Court in the case of **Deputy Director of Collegiate Education vs. Nagoor Meera**, 1995 (3) SCC 377. It is open for the applicant to make appropriate application before the Hon'ble High Court for listing his criminal case at an early date as has been held by the Hon'ble High Court in the case of **K.C. Sareen vs. CBI Chandigarh**, JT 2001 (6) SC 59 whereby under the similar circumstances, the case was rejected and Apex Court has observed that the High Court would board the appeal for early hearing and for that purpose it is open for the applicant to move the High Court for early hearing.

3. With these observations, the OA is disposed of with no order as to costs.


(B.L. KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

AHQ