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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::: GUWAHATI-5.

O.A. NO. 82 of 1994
T.A. NO.

DATE OF DECISION 8.12.1997

Shri Srinibash Banik

(PETITIONER(S))

Mr A. Ahmed

ADVOCATE FOR THE
PETITIONER (S)

VERSUS

Union of India and others

RESPONDENT (S)

Mr S. Ali, Sr. C.G.S.C.

ADVOCATE FOR THE
RESPONDENT (S)

THE HON'BLE MR JUSTICE, D.N. BARUAH, VICE-CHAIRMAN

THE HON'BLE MR G.L. SANGLYINE, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Vice-Chairman



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.82 of 1994

Date of decision: This the 8th day of December 1997

The Hon'ble Mr Justice D.N. Baruah, Vice-Chairman

The Hon'ble Mr G.L. Sanglyine, Administrative Member

Shri Srinibash Banik,
Ex. Store Keeper-III,
Canteen Stores Department,
Narengi Depot, Guwahati.

.....Applicant

By Advocate Mr A. Ahmed.

-versus-

1. The Union of India, represented by
The Chairman, Board of Administration,
Canteen Stores Department,
Bombay.

2. The General Manager,
Canteen Stores Department,
Bombay.

.....Respondents

By Advocate Mr S. Ali, Sr. C.G.S.C.

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O R D E R

BARUAH.J. (V.C.)

This original application has been filed by the applicant challenging the Annexure 3 order of dismissal dated 16.2.1993 passed by the Major General and Chairman, Board of Administration, Canteen Stores Department under the Ministry of Defence, and also the Annexure 4 appellate order dated 24.5.1994 passed by the Quartermaster General. Facts for the purpose of disposal of this application are:

At the relevant time the applicant was working as Grade III Store Keeper (SK-III for short) at Canteen Stores Department (CSD for short), Narengi, till 6.3.1993.



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2. In September 1991, the authority concerned found that an amount of Rs.81,354.54, which was, on further calculation, found to be Rs.72,878.31, had been misappropriated by the applicant. Besides, the applicant also remained absent without the permission of the authority concerned from 11.5.1991 to 2.9.1991. Accordingly, two chargesheets were framed and served on him with the statement of imputation asking the applicant to submit his written statement of defence. However, the applicant did not submit his written statement. The authority decided to proceed with the disciplinary proceeding in the absence of the written statement in his defence, and for that purpose an Enquiry Officer was appointed. The applicant appeared on 4.12.1991 in the enquiry proceedings and pleaded not guilty. However, on a later date, i.e. on 13.1.1992 he pleaded guilty in writing. On his pleading guilty the authority imposed penalty of dismissal. Against the dismissal order the applicant preferred an appeal before the appellate authority, namely, the Quartermaster General. The appeal was, in due course, dismissed. Hence the present application.

3. In the present application the applicant has stated that the disciplinary authority had punished him without examining any witness. Therefore, the order of dismissal was bad in law. There is also a complaint that the appellate authority did not consider the case of the applicant in a proper perspective.

4. In due course the respondents filed written statement. In the written statement the respondents have stated that the applicant had, on 13.1.1992, pleaded guilty in writing, and therefore, there was no necessity of examining any witness. According to the respondents the order was passed in accordance with the provisions of law. There was no infirmity and hence no interference was called for.

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5. We Heard Mr A. Ahmed, learned counsel for the applicant and Mr S. Ali, learned Sr. C.G.S.C. Mr Ahmed strenuously argued before us that the applicant was compelled by force to plead guilty in writing. The learned counsel further submits that at present the applicant is willing to return the money which according to the respondents the applicant had misappropriated. Mr Ali, on the other hand, submits that there is no evidence to show that the applicant was compelled to plead guilty under undue influence of the respondents. Even, after the applicant came out from the proceedings there is no evidence to show that he made any complaint before any authority in this regard.

6. On the rival contentions of the learned counsel for the parties, it is now to be seen whether the order of dismissal of the applicant passed by the disciplinary authority and affirmed by the appellate authority can sustain in law. The only grievance of the applicant is that no witness was examined, and therefore, the order of dismissal was bad. This, we find it difficult to accept in view of the fact that he had already pleaded guilty and at this belated stage he has put up a new story that he was compelled to plead guilty by the Presenting Officer. The order of dismissal was passed on 16.2.1993 and against an appeal was filed by the applicant. In the appeal this point was not taken up by the applicant that he was forced to plead guilty. Besides, after the appellate order was passed on 24.5.1994, the present application was filed on 26.4.1994 and during this period also there is no evidence to show that the applicant had made complaint that he was forced to plead guilty. Besides, as submitted by Mr Ahmed, that the applicant is willing to return the money only indicates that the

applicant.....



14

applicant had at least received the money.

7. Considering the entire facts and circumstances of the case we find no merit in this application. Accordingly the application is dismissed. However, in the facts and circumstances of the case we make no order as to costs.



(G. L. SANGLYINE)
MEMBER (A)



(D. N. BARUAH)
VICE-CHAIRMAN

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