



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CALCUTTA BENCH, CALCUTTA

O. A. No. 350/00101

of 2017

IN THE MATTER OF:

SUBRATA BASAK,

aged about 44 years, son of Late Nani Gopal Basak, residing at C/o. Late S.K. Dey, Salbagan, Majherpara, Debitala Road, Ichapore, District- 24-Parganas (North), Pin- 743144 and working to the post of Master Craftsman in the Rifle Factory, Ishapore, 24-Parganas (North) Pin-74314;

...Applicant

-Versus-

1. **UNION OF INDIA** service through the Secretary, Ministry of Defence (Defence and Production), Government of India, South Block, New Delhi-110001.

2. **THE DIRECTOR GENERAL -CUM- CHAIRMAN,** Ordnance Factory Board (OFB), Government of India, Ministry of Defence, having his office at 'Ayudh Bhawan' 10A, Shaheed Khudiram Bose Road, Kolkata- 700001.

3. **THE ADDITIONAL GENERAL MANAGER,** Rifle Factory, Ishapore, Post Office-

WLC

Nawabganj, District- North 24-Parganas,
Pin- 743144.

4. **THE GENERAL MANAGER**, Rifle Factory
Factory, Ishapore, Post Office-Nawabganj,
District- North 24-Parganas, Pin- 743144;

5. **THE JUNIOR WORKS MANAGER/MM**
Section, Rifle Factory Factory, Ishapore,
Post Office-Nawabganj, District- North 24-
Parganas, Pin- 743144.

... Respondents.

WDC

No. O.A. 350/01101/2017

Date of order: 30.8.2017

Present : Hon'ble Mr. A.K. Patnaik, Judicial Member

For the Applicant : Mr. P.C. Das, Counsel
Ms. T. Maity, Counsel

For the Respondents : Mr. P. Pramanik, Counsel

ORDER (Oral)**A.K. Patnaik, Judicial Member:**

Heard Mr. P.C. Das, Ld. Counsel for the applicant and Mr. P. Pramanik, Ld. Counsel for the official respondents.

2. This OA has been filed by Subrata Basak challenging impugned order dated 9.1.2015 issued by the General Manager, Rifle Factory, Ichapore, memorandum of charge-sheet dated 3.12.2012 along with imputation of the same date, Penalty order dated 24.1.2013, memorandum of charge-sheet dated 29.6.2017 and also non-consideration of his representation dated 10.7.2017 and 15.7.2017. This O.A. has been filed praying for the following reliefs:

"a) To quash and/or set aside the impugned office order dated 09.01.2015 issued by the General Manager, Rifle factory, Ishapore by which he communicated to the applicant that since the applicant did not prefer an appeal with a stipulated period of time, therefore, such punishment order cannot be withdrawn which is absolutely a baseless submission made by the concerned being Annexure A-20 of this original application.

b) To quash and/or set aside the impugned Memorandum of Charge-Sheet dated 03.12.2012 issued by the General Manager, Rifle Factory, Ishapore against the applicant along with imputation dated 03.12.2012 which has been issued by the incompetent authority against the applicant by violation of the CCS (CCA) Rules, 1965 as per your applicant's designation is concerned being Annexure A-5 of this original application.

c. To quash and/or set aside the impugned Memorandum of Charge-Sheet dated 29.06.2017 which has been issued by the incompetent authority i.e the General Manager, Rifle Factory, Ishapore on the self-same charges which has already been set aside and/or quashed by the Ordnance Factory Board, Kolkata vide order dated 27th August, 2014 by not disclosing the name of the witness and by not supplying the relied upon documents including the report of the security raid to the present applicant to seize his opportunity to submit a defence statement against the said charge-sheet and not

only that against the self-same charge, two charge-sheets has been issued and they are going to punish the applicant doubly which is not permissible in the eye of law as because a man cannot be punished twice against the self-same charges being Annexure A-21 of this original application.

d. To declare that the entire proceeding which has been taken by the General Manager, Rifle Factory, Ishapore against the applicant against the self-same charges is otherwise bad in law and illegal and your applicant may be exonerated from all charges along with all consequential benefits.

e. To quash and/set aside the action taken by the authority concerned against the applicant to punish him against the self-same charges doubly which cannot be sustainable in the eyes of law as because a man cannot be punished twice against the self-same charges and on that ground alone the entire proceeding may be set aside and/or quashed and your applicant may be exonerated from all charges along with all consequential benefits.

f. To quash and/or set aside the charge-sheet dated 29.06.2017 on the ground that no document has been supplied to the applicant and no report of security raid has been given to the applicant and no name of the witness is there and only on the basis of the submission of the Junior Works Manager, MM Section, the so-called charge-sheet has been issued which clearly violates the CCS (CCA) Rules, 1965 and also violates the judgment and order passed by the Hon'ble Supreme Court in the case of Dipak Puri -vs- Union of India & Ors., reported in 2000 SCC (L&S), Volume 2 being Annexure A-21 of this original application

g) Costs;

h. Any other appropriate relief or reliefs as Your Honour may deem fit and proper."

3. The facts in a nut shell as per Mr. Das, Ld. Counsel for the applicant are that the Junior Works Manager, MM Section issued a suspension order against the applicant on 26.9.2012. The applicant against such suspension order gave a reply and thereafter he also submitted an explanation but on 16.10.2012 the said authority issued a suspension of his overtime. On 6.12.2012 the General Manager, Rifle Factory, Ishapore issued a Memorandum of Charge-sheet against him and thereafter another charge-sheet was also issued. The applicant filed replies to the said charge-sheets but on 24.1.2013 the General Manager, Rifle Factory issued a punishment order against him. He was also confronted with another punishment order dated 18.2.2013. He made an appeal before the appellate authority on 13.3.2013 and sent reminders. He preferred a

Whe

representation before the followed by reminder for withdrawing his punishment order. On 29.6.2017 the General Manager, Rifle Factory issued a new Memorandum of Charge-sheet against the applicant on the self-same charges. The applicant preferred a representation on 15.7.2017, which is still pending consideration.

4. Mr. Das, Ld. Counsel for the applicant submitted that the grievance of the applicant would be more or less addressed if a specific order is passed by directing the concerned authority i.e. respondent No. 4 to dispose of the representation dated 15.7.2017 within a specific time frame.

5. Therefore, I dispose of this O.A. by directing the respondent No. 4 that, if any, such representation as claimed by the applicant have been preferred on 15.7.2017 and the same is still pending consideration, then the same may be considered and disposed of within a period of four weeks from the date of receipt of this order.

6. Though I have not entered into the merits of the case still then I hope and trust that after such consideration if the applicant's grievance is found to be genuine then expeditious steps may be taken by the concerned respondent No. 4 from the date of such consideration to extend those benefits to the applicant. However, if in the meantime the said representation stated to have been preferred on 15.7.2017 has already been disposed of then the result thereof be communicated to the applicant within a period of 2 weeks from the date of receipt of a copy of this order.

7. Till the representation dated 15.7.2017 is considered and disposed of no coercive action shall be taken against the applicant as per the charge-memorandum at Annexure "A-21".

8. With the aforesaid observation and direction, the O.A. is disposed of.



6

9. As prayed for by Mr. Das, Ld. Counsel a copy of this order along with paper book be transmitted to the respondent No. 2,3 and 4 by speed post for which Mr. Das undertakes to deposit necessary cost in the Registry by the next week.

(A.K. Pattnaik)
Judicial Member

SP