

②

Central Administrative Tribunal, Principal Bench
Original Application No.657 of 2003

New Delhi, this the 18th day of September, 2003

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. R.K. Upadhyaya, Member (A)

M.R. Meena working as LHF/F.F.
Ordnance Factory,
Muradnagar

.... Applicant

(By Advocate: Shri M.K. Bhardwaj)

Versus

Union of India & others

1. The Secretary,
Ministry of Defence Production,
South Block, New Delhi
2. The Director General,
Ordnance Factory Board,
Ayush Bhawan,
10-A, S.K.R. Base Road,
Kolkata (West Bengal)
3. General Manager,
Ordnance Factory Board,
Muradnagar (U.P.), Ghaziabad,
Pin-201206

.... Respondents

(By Advocate: Shri V.S.R. Krishna)

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

The applicant is an employee in the Ordnance Factory, Muradnagar. A show cause notice dated 18.12.2001 had been served on him which reads:

"It has come to the notice of the Management that on 12.11.2001 at about 9.40 AM one casual visitor named Shri R.C. Wadhwa of Fire Fighters, New Delhi came to the Fire Fighting section to meet JWM /FF but you took him to sit in the nearby room of FF Section where you arranged Alcohol for him, later on he was found by the Security Staff, under influence of Alcohol. This is a misconduct on your part and renders you liable for disciplinary action against you.

2. However before initiating any action, you are hereby called upon to explain your position within 3 days from the date of receipt of this notice, failing which necessary action as deemed fit will

ls Ag

9

-2-

be taken against you."

2. The applicant had replied to the same on 23.12.2001, denying the assertions and he pleaded for justice. He further recorded that the allegation should be investigated.

3. It was followed by a chargesheet dated 5.2.2002 which refers to the basic fact that a third person was taken by the applicant into a room, where he was served with the liquor. The person was later found under the influence of liquor. The applicant had submitted the reply wherein he denied the allegation. The disciplinary authority, acting upon the same, imposed a penalty of reduction of pay by one stage from Rs.4110/- P.M. to Rs.4030/- P.M. in the existing time scale of pay for a period of one year without cumulative effect. The applicant preferred an appeal which was dismissed. The relevant portion which will be discussed hereinafter reads:

"Aggrieved, the instant appeal has been preferred wherein the appellant has stated that the memorandum does not contain any witness or any other evidence against the appellant. Even no enquiry was ordered to investigate the matter. On the contrary, a number of employees in the section have given in writing that no such incident had taken place in the section. The appellant has also contended that when as per the entry of the Visitors' Book, the visitor came in at 9.55 A.M., how was it possible that he had arranged liquor for him at 9.40 A.M.?"

The averments made by the appellant have been examined and it is concluded that the appellant has failed to furnish any valid grounds to prove his innocence. The documents and circumstantial evidence clearly show that the appellant escorted the visitor to different places and as per the confession of the visitor, he had given Rs.200/- to the appellant who supplied the wine which was still in possession of the visitor. But the appellant has failed to put forth anything in the form of evidence which would prove that he was not guilty."

ls Ag



-3-

4. By virtue of the present application, the orders passed by the disciplinary as well as appellate authority are being assailed.

5. During the course of submissions, learned counsel for the applicant had raised two pertinent arguments:

(a) the applicant/delinquent had requested for an enquiry and, therefore, in terms of the decision of the Govt. of India, DOP&T dated 28.10.85, the same should have been held even for imposing the abovesaid minor penalty; and

(b) the appellate authority has considered the extraneous factors while dismissing the appeal and those extraneous factors are not supported by any evidence on the record.

6. We have carefully gone through the matter in question. Perusal of the record reveals that when the chargesheet was served, the applicant denied the charge but made no request for holding the enquiry. Our attention has been drawn towards the reply to the show cause notice which had been submitted even before the chargesheet. Therein also the applicant had simply requested that the matter should be investigated.

7. That request, therefore, firstly had been made before the chargesheet was served and secondly it was not

LS Ag

W

-4-

for an enquiry to be conducted as is being alleged at the Bar. Therefore, the first plea must be rejected to be without any merit.

8. As regards the second contention, we have already referred to the fact that the charge was served on the applicant on the assertion that he took the third person inside and made him sit in a room, arranged alcohol and the said person was later found under the influence of liquor. The appellate authority, on the contrary, recorded that there was a confession of the visitor that he had given Rs.200/- to the applicant who supplied wine which was still in possession of the visitor. A copy of any such confession has not been shown to be given to the applicant nor it is a part of the chargesheet. Therefore, the appellate authority fell into a grave error in considering the extraneous factors which were not a part of the charge, while deciding the appeal. To that extent, the order of the appellate authority, therefore, cannot sustain.

9. Resultantly, we allow the present application only in part. The order passed by the appellate authority is quashed. The appellate authority may pass a fresh order in accordance with law. Keeping in view the aforesaid, we are not expressing ourselves on other pleas that may be available to the applicant.



(R.K. Upadhyaya)
Member(A)



(V.S. Aggarwal)
Chairman