

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No.2150 of 2003

New Delhi, this the 26th day of April, 2004

HON'BLE MR. KULDIP SINGH, MEMBER(JUDL)  
HON'BLE MR. S.A. SINGH, MEMBER (A)

Chandvir Singh  
Ex-Fire Operator, ARC Sarsawa,  
S/o Shri Jaipal Singh,  
R/o Village and P.O. Silawar,  
District Mujaffar Nagar,  
U.P.

....Applicant

By Advocate: None.

Versus

1. The Union of India  
Through its Special Secretary,  
Aviation Research Centre,  
Directorate General of Security  
(Cabinet Secretariat)  
East Block-V, R.K. Puram,  
New Delhi-110066.
2. Deputy Director (A) AW  
(GP. Capt. Kumar)  
Aviation Research Centre,  
Directorate General of Security  
(Cabinet Secretariat)  
East Block-V, R.K. Puram,  
New Delhi-110 066. .. Respondents

By Advocate: None.

O R D E R(ORAL)

By Hon'ble Mr. Kuldip Singh, Member(Judl)

Applicant has filed this OA under Section 19 of the Administrative Tribunals Act whereby he has challenged an order dated 19.6.2002 vide which respondent no.2 proposed to hold an enquiry against the applicant. Then he has also challenged an order dated 18.2.2003 whereby the applicant has been removed from service vide Annexure A-7. Applicant has also challenged an order dated 26.3.2003 passed by Shri R.S. Bedi, Special Secretary (Cabinet Secretariat) thereby rejecting the appeal of the applicant, vide Annexure A-9. The applicant also challenged the order dated 23.4.2003

*km*

10

whereby his representation/revision has been rejected vide Annexure A-11.

2. Facts in brief are that the applicant who was working as Fire Operator in the Aviation Research Centre (ARC), Directorate General Security (Cabinet Secretariat), Government of India and was posted at ARC Sarsawa, District Saharanpur, UP where he was served with a charge-sheet on the allegation that the applicant while functioning as Fire Operator had been placed on 'B' Shift duty on 17.4.2002 and he attended duty at Fire Station at 1815 hours instead of 1400 hours that too in a drunken condition. Thus he had shown lack of devotion to duty.

3. Secondly the applicant while working as Fire Operator on 17.4.2002 in a drunken condition started abusing staff and man-handled Shri S.D. Tirkey, Fire Operator and Shri J.N. Tripathy, Fire Supervisor. Thus he has not maintained cordial relationship with the staff and had acted in a manner unbecoming of a Government servant thereby violated Rule 3(ii)(iii) read with Rule 22 of the CCS (Conduct) Rules, 1964.

4. The applicant further says that he has submitted reply to these charges which were quite exaggerated but the Inquiry Officer was appointed to enquire into the charges.

5. The Inquiry Officer then wrote a letter that he will be holding a preliminary enquiry on 20.11.2002. He also informed the defence assistant Shri A.B. Tiwari

*Jain*

about the holding of preliminary enquiry. The applicant alleges that the enquiry was not conducted in a fair manner and no opportunity was given to cross-examine the witnesses, nor he was supplied copies of statements of witnesses examined before the Inquiry Officer. Thus the non-supply of the documents deprived the applicant to have fair opportunity to cross-examine the witnesses.

6. It is further submitted that the applicant was neither supplied with the inquiry report nor the documents filed by the department in the enquiry proceedings as such the applicant was deprived of his fundamental right to challenge the inquiry proceedings.

7. The applicant after receiving the impugned order of removal preferred an appeal which was also decided in a whimsical and illegal manner. Thus it is stated that the order passed by the Inquiry Officer, disciplinary authority as well as the appellate authority are vitiated, the same are liable to be quashed.

8. Respondents had filed their reply. Respondents submitted that when the memo of charges were issued the respondents filed his reply which was not found satisfactory so it was ordered to hold a formal enquiry. It is denied that the Inquiry Officer had not conducted preliminary hearing in a fair manner rather it is stated that the applicant had partially admitted the Articles of Charge vide his defence statement dated 2.7.2002.

*km*

17  
9. It is further stated that the enquiry has been conducted in accordance with the CCS (CCA) Rules.

10. It is further stated that the allegation with regard to non-supply of documents is denied rather it is stated that during the course of enquiry, the applicant was given all reasonable opportunity for supply/inspection of documents by the Inquiry Officer vide order dated 22.11.2002 and as per his request he was also provided defence assistant, namely, Shri A.B. Tiwari for pleading his case.

11. It is further submitted that the enquiry was conducted in a most impartial manner giving ample opportunity to the applicant to defend his case during the enquiry. Thus it is stated that the OA be dismissed.

12. When the case was called no-one appeared for the parties so we proceeded as per Rule 15/16 of the CAT (Procedure) Rules.

13. We have gone through the record.

14. The only plea of the applicant assailing the order is that he has not been supplied copies of documents as such he has been deprived of an opportunity of cross-examining the witnesses which also led to his defence.

15. However, from the record we find that the applicant himself has annexed along with his OA memo of charge-sheet supplied to him, list of witnesses supplied

*[Signature]*

to him and the list of statement of witnesses has also been placed on record. The defence statement Annexure A-III also show that the applicant admitted that on 17.4.2002 he reached late to attend his duty as he was away to his village on previous date. He also admits that he was rebuked by Shri Tripathi. He abused Mr. Tripathi and Shri S.D. Tirkey. Since he was in a perturbed condition because of his mother's illness, he only submitted that he came late and quarrelled with staff though he is silent about drunken condition. Papers on record also show that applicant was allowed to engage a defence assistant by the Inquiry officer. In his appeal Annexure A-8 the applicant had also admitted that he had a fight with his colleague Shri Tirkey, Fire Operator and Shri Tripathi, Fire Supervisor and he acknowledged his blunder committed by him and he also prayed for mercy as well as that some other punishment be imposed other than termination of service as it will cause the unimaginable miseries to me and all my family members.

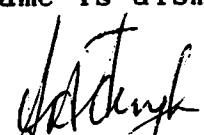
16. Thus we find that the applicant is admitting the guilt in toto about reaching late and having fight with his colleagues, the appellate authority after having considered all the pleas found that the award of punishment by the disciplinary authority is quite fair and judicious and there is no ground to change the decision. Thus we find that the applicant having admitted the guilt has prayed that some lesser punishment be awarded to him which plea has not been accepted by the appellate authority.

*kr*

17. In our view also it is for the disciplinary authority to decide about the quantum of punishment. The applicant, who is a Fire Operator, is also supposed to be a member of the disciplined establishment, should not have reached late nor he should have quarrelled with his colleagues so we do not find any ground to interfere even on the ground of quantum of punishment. Moreover punishment in the given circumstances is not such which may shake judicial conscience.

18. No other ground has been taken in the OA.

19. In view of the above, OA has no merits and the same is dismissed. No costs.

  
(S. A. SINGH)  
MEMBER (A)

  
( KULDIP SINGH )  
MEMBER(JUDL)

/Rakesh