



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No. 3739/2014

New Delhi, this the 04th day of December, 2019

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)

Gopal Krishan Saini, Age about 56 years,
Retired Asst. Supervisor,
S/o Sh. Amar Nath Saini,
R/o Qtr. No. C-9, Family Accommodation,
At MF Jalandhar Cantt.,
Jalandhar.

...Applicant

(By Advocate: Mr. M.K. Bhardwaj)

Versus

1. The Secretary,
Ministry of Defence,
South Block, New Delhi.
2. The Quarter Master General,
Integrated Headquarter of MoD,
Sena Bhawan, New Delhi.
3. The DDGMF,
QMGs Branch, IHQ of MoD (Army),
WB-III, R. K. Puram,
New Delhi.

...Respondents

(By Advocate: Mr. Satish Kumar)

ORDER (ORAL)

Mohd. Jamshed, Member (A):-

The applicant joined Military Farm (MF) in 1982 as Sub Assistant Supervisor. In December, 2002, he was posted at MF, Meerut as Assistant



Supervisor. Vide order dated 12.09.2008, the applicant was issued a charge sheet alleging that he while working as Assistant Supervisor in Dairy Section of MF during July - August, 2004 he was involved in attempted illegal sale of approximately 800 litres of milk, belonging to Military Farm, Meerut. The charges read as under:-

“Article -I

1. That the said Shri Gopal Krishan Saini, A/Supr while functioning as Asstt Dairy Section at Mil Farm Meerut during the Month of Jul to Aug 2004 failed to maintain devotion to duty. The said Shri Gopal Krishan Saini, A/Supr did not to ensure issue of correct quality and quantity of milk to troops in that he aided and abetted in the attempted illegal sale of milk approx 800 ltrs of milk belonging to Military Farm, Meerut to Aggarwal Milk Products on 21 Aug 2004.

2. Thus by his above act, Shri Gopal Krishan Saini, A/Supr the then Asstt Dairy Incharge of MF Meerut has exhibited lack of devotion to duty and thereby violated Rule 3(1) (ii) of CCS (Conduct) Rules, 1964.

Article-II

1. That the said Shri Gopal Krishan Saini, A/Supr while functioning as Asstt. Dairy Section at Mil Farm Meerut during the month of Jul to Aug 2004 failed to maintain devotion to duty in that the said Shri Gopal Krishan Saini, A/Supr was allegedly involved in illegal sale of milk belonging to Mil Farm, Meerut to Aggarwal Milk Products on regular basis during the month of Jul and Aug 2004.

2. Thus by his above act, Shri Gopal Krishan Saini, A/Supr the then Asstt Dairy Incharge of MF Meerut has exhibited lack of devotion to duty and thereby violated Rule 3(1) (ii) of CCS (Conduct) Rules, 1964.

Article-III



1. That the said Shri Gopal Krishan Saini, A/Supr while functioning as Asstt. Dairy Section at Mil Farm meerut during the month of Jul to Aug 2004 failed to mention devotion to duty in that the said Shri Gopal Krishan Saini, A/Supr had knowingly keeping separated milk in dairy section Mil Farm Meerut against the existing orders.

2. Thus by his above act, Shri Gopal Krishan Saini, A/Supr the then Asstt Dairy Incharge of MF Meerut has exhibited lack of devotion to duty and thereby violated Rule 3(1) (ii) of CCS (Conduct) Rules, 1964.”

2. Subsequently on 23.03.2011, Disciplinary Authority (DA) appointed Inquiry Officer (IO) for conducting an inquiry. The IO submitted his report on 15.04.2011 holding article No. 01 of the chargesheet as proved and article No. 02 and 03 as not proved. The applicant submitted his detailed reply on the inquiry report. The DA vide impugned order dated 05.04.2013, imposed the punishment of removal from service upon the applicant. An appeal was preferred by the applicant. The Appellate Authority (AA) vide detailed order dated 30.07.2014, reduced the punishment of ‘removal from service’ to ‘compulsory retirement’.

3. The applicant submits the allegations levelled against him are baseless. The IO has also proved only article No. 01 of the charge and this



proves that the charges levelled against him are not based on facts and punishment imposed by the DA & AA are not commensurate with the alleged lapses on his part. Aggrieved by this, the applicant filed the present OA seeking relief in terms of quashing and setting aside the impugned order dated 05.04.2013 and the order of the AA dated 30.07.2014.

4. The respondents have opposed the OA through their counter affidavit stating that 05 civil officials of MF, Meerut including the applicant were issued charge memorandum for attempted illegal sale of approximately 800 litres of milk, belonging to MF, Meerut to one M/s. Aggarwal Milk Products on 21.08.2004. The departmental inquiry was conducted duly extending reasonable opportunity to the applicant. The IO held the applicant responsible. The DA after due consideration decided to impose the punishment of removal from service on the applicant. His appeal was considered by the AA and the punishment was reduced to that of compulsory retirement. It is, further, submitted that whereas the charges against two out of five civilian officials were



dropped, punishment of 10% cut in pension for a period of 10 years was imposed on other two who had retired and thus the contention of the applicant that others have been let off is not based on facts. It has also been stated that the alleged illegality on the part of the applicant is a serious matter as the Military Farms were supposed to ensure proper supply of milk to the Armed Force Personnel and such an action on the part of the applicant deserves very strict punishment, which was imposed by the DA. However, on consideration of his appeal, the AA took a lenient view and reduced the same to that of compulsory retirement.

5. We heard Mr. M. K. Bhardwaj, learned counsel for the applicant and Mr. Satish Kumar, learned counsel for the respondents.

6. The applicant was working as Assistant Supervisor in dairy section of MF, Meerut during July-August, 2004. A surprise check on illegal sale of milk was planned by the concerned officers both at the MF and at the Aggarwal Milk products shop. On 21.08.2004, it is stated that the officers had



received milk in the MF dairy section provided through another vehicle from PCDF and cattle yard including 800 litres of milk, for which entries were made. However, later on 800 litres of milk was recovered in another vehicle at Aggarwal Milk Products shop, for which required entries had not been made and this milk was for illegal sale. Subsequently, a charge memorandum was issued to the applicant along with 05 other civilian officials involved in this matter. The IO in his report held article No. 01 as proved and article No. 02 and 03 of the charges as not proved against the applicant. The DA having considered the inquiry report and representation of the applicant imposed upon him the punishment of removal from service vide detailed speaking order dated 05.04.2013. The appeal preferred by the applicant was considered by AA and through order dated 30.07.2014 the punishment of removal from service was reduced to that of compulsory retirement. It was also directed by the AA that the applicant shall be entitled to service gratuity and retirement gratuity as admissible to him under Rule 49 and 50 of CCS Pension Rules.



7. The contention of the applicant that other civilian officials who were also charge-sheeted, have been let off is contested by the respondents. It is stated that charges against the two officials were dropped and two other officials who had already retired from service were punished with 10% cut in their pension for a period of 10 years.

8. In such matters, it is not for the Tribunal to look into the gravity of the offence committed and the decision of the DA to impose penalty. The Tribunal can intervene, only if, it is found that the disciplinary proceedings suffer from serious infirmities and reasonable opportunities in accordance with law have not been extended as the same would be denial of natural justice. It is well settled law as laid down by the Hon'ble Apex Court ruling in **State Bank of India Vs. Samarendra Kishore Endow** 1994 STPL 840 SC.

It reads as under:-

“10. On the question of punishment, learned Counsel for the respondent submitted that the punishment awarded is excessive and that lesser punishment would meet the ends of justice. It may be noticed that the imposition of appropriate punishment is within the discretion and judgment of the disciplinary authority. It may be open to the appellate authority to interfere with it but not to the High Court -- or to the Administrative Tribunal



for the reason that the jurisdiction of the Tribunal is similar to the powers of the High Court under [Article 226](#). The power under [Article 226](#) is one of judicial review. It "is not an appeal from a decision, but a review of the manner in which the decision was made."

...

"We must unequivocally state that the jurisdiction of the Tribunal to interfere with the disciplinary matters or punishment cannot be equated with an appellate jurisdiction. The Tribunal cannot interfere with the findings of the inquiry Officer or competent authority where they are not arbitrary or utterly perverse. It is appropriate to remember that the power to impose penalty on a delinquent officer is conferred on the competent authority either by an Act of legislature or rules made under the proviso to [Article 309](#) of the Constitution. If there has been an enquiry consistent with the rules and in accordance with principles of natural justice what punishment would meet the ends of justice is a matter exclusively within the jurisdiction of the competent authority. If the penalty can lawfully be imposed and is imposed on the proved misconduct, the Tribunal has no power to substitute its own discretion for that of the authority. The adequacy of penalty unless it is mala fide, is certainly not a matter for the Tribunal to concern with. The Tribunal also cannot interfere with the penalty if the conclusion of the Inquiry Officer or the competent authority is based on evidence even if some of it is found to be irrelevant or extraneous to the matter."

9. In the instant case, we do not find any infirmity in issue of charge memorandum, conduct of inquiry and the detailed speaking orders of the DA and AA. Although, the comparison of punishment imposed on other civilian officials in the same case cannot be normally undertaken, it is evident that in this



case whereas the charges has been dropped against two, the other two have been imposed the punishment of cut in pension. Thus the claim of applicant is not tenable in this regard.

10. The DA imposed punishment of removal from service on the applicant. The appeal preferred by the applicant against the order of DA has also been duly considered by the AA and through a detailed speaking order the punishment has also been reduced to that of compulsory retirement. The service gratuity and retirement gratuity is also admissible to him under Rule 49 and 50 of CCS Pension Rules.

11. We, therefore, do not find any illegality in the proceedings and the orders passed by DA and AA. The OA is thus devoid of merit and the same is, accordingly, dismissed. There shall be no order as to costs.

(Mohd. Jamshed) (Justice L. Narasimha Reddy)
Member (A) Chairman

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