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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 401
T.A. No.

1986

DATE OF DECISION 23.6.87

Hardeep Singh

Petitioner

Shri A.P. Mohanty,

Advocate for the Petitioner(s)

Versus

Union of India

Respondent

Shri M.L. Verma,

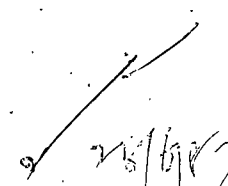
Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. Justice G. Ramanujam, Vice Chairman.

The Hon'ble Mr. Birbal Nath, Member

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?


(Birbal Nath)
Member


(G. Ramanujam)
Vice Chairman

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

REGN No. DA 401/86

Date of Decision 23.6.87.

Shri Hardeep Singh

..... Applicant

Vs.

Union of India

..... Respondents

CORAM:- Hon'ble Mr. Justice G. Ramanujam, Vice Chairman

Hon'ble Mr. Birbal Nath, Member

For the Applicant

.....

Shri A.P. Mohanty, Advocate

For the respondents

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Shri M.L. Verma, Advocate

(Judgement of the Bench delivered by Hon'ble
Mr. Justice G. Ramanujam, Vice Chairman)

JUDGEMENT

In this case an application under Section 19 of Administrative Tribunal Act has been filed by the applicant. The applicant has challenged the validity of order passed by the 3rd respondent rejecting the appeal filed by the applicant and up-holding the order of removal from service by GOC, Delhi Area.

2. Circumstances under which the applicant was removed from the service by the GOC Delhi Area made briefly be noted. The applicant hereunder was employed as Safaiwala in the year 1959. In or about February 1981, he applied for L.T.C. concession to travel from Delhi to Kanaya Kumari and on the basis of the application he received a advance of Rs. 1300/- as against the total cost of Rs. 1789/50. However, he did not perform the journey and according to the applicant, he offer refund of amount but no order was passed to permit him to refund the amount. Later on 4.2.82 charge-memo was issued to the

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applicant alleging that he made a fraudulent claim for L.T.C. concession by including persons of the applicant's family, who were not dependent upon him.

3. The applicant has challenged the charges and gave the explanation how he can make application for L.T.C.. There was an enquiry on the basis of the said charge-memo dated 4.2.82. After conclusion of the enquiry holding the applicant guilty of the charge framed against him, the 3rd respondent passed the order for removal from service of the applicant on 15.7.82. As against the said order of removal the applicant filed an appeal to the 3rd respondent. However, that appeal was dismissed on the ground that it is barred by time. Thereafter, the applicant approached to the High Court of Delhi by filing the writ petition. The said writ petition was pending for some time and after constitution of the Tribunal that Writ Petition was transferred and re-numbered as T-593/85. The said T-593/85 came up for disposal before the Bench of the Tribunal. After hearing both the parties order dated 20.3.86 was passed wherein the Tribunal allowed the applicant's petition and quashed the appellate order which rejected the appeal time barred and directed the Appellate Authority to dispose of the appeal dated 15.9.82 on merits and in accordance with the law taking into account the submissions made by the applicant in the writ petition and in rejoinder filed by him in High Court, after giving an opportunity of hearing to the applicant. Thereafter the Appellate Authority has passed the impugned order (not dated) dismissing the appeal and the order passed is as follows:-

" I am directed to refer to the Central Administrative Tribunal Order No. T-593/85 dated 20 Mar 1986 and to state that the Appellate Authority i.e. Director General Staff Duties has reconsidered your appeal dated 15.9.82. Keeping in view the merits

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of the case and submissions made in your appeal to the Central Administrative Tribunal, the same have been rejected by the Appellate Authority. The order of removal passed by the GOC Delhi Area shall stand. "

4. Though the learned counsel for the applicant wanted to conclude the case on merits, we are not inclined to go into the merits as we agree with the learned counsel for the respondent that the appellate authority in fact had not strictly complied with the direction of the Tribunal in its order. A perusal of the order of the Tribunal will indicate that the appellate authority was directed to hear the applicant before a decision is taken on the appeal and the appellate authority had also been directed to dispose of the appeal in accordance with the law after due consideration of the contentions urged by the applicant in his application as well as in the rejoinder. The perusal of the impugned order passed by the 3rd respondent does not indicate that the applicant was not given opportunity of hearing. The learned counsel for the applicant has submitted that the applicant was not given notice of hearing of the appeal nor was he given an opportunity of hearing. The impugned order does not indicate on the face of it that any opportunity of hearing was given as per direction of the Tribunal. Further the order passed by the 3rd respondent suffers from lacuna and does not show that the appellate authority has applied his mind to the submissions made by the applicant in his appeal and also in the rejoinder as directed by the Tribunal. The impugned order merely says that keeping in view of the merits of the case and submissions made in their appeal to the Central Administrative Tribunal

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the appeal is to be rejected. The Appellate Authority is directed to consider the merits of the case taking into account the contentions raised by the applicant in his application before the Tribunal and in the rejoinder. The order would indicate that Appellate Authority should consider such those admissions made by the applicant in his original application and also in the rejoinder. Having regard to the nature of earlier order of the Tribunal, we would direct the 3rd respondent to deal with the contention of the applicant and dispose of those contentions on merits. Without keeping in view of the submission made in the appeal, the appeal has been rejected which is not a proper disposal of the appeal and does not take into account strict compliance with the order of the Tribunal. We, therefore, set aside the impugned order of the 3rd respondent and direct that 3rd respondent i.e. Appellate Authority to dispose of the appeal strictly keeping in mind the direction of the Tribunal and pass a speaking order assigning reasons for conclusion arrived at by the Appellate Authority. The appeal is, therefore, allowed and 3rd respondent is directed to dispose of the appeal by passing a reasoned order taking into account the direction given by the Tribunal in its earlier order and also observation made by us in this judgement within 3 months from the date of receipt of this order. The Appellate Authority should fix a suitable date for hearing and opportunity of hearing be given to the applicant and if requested, his counsel before passing the order in the appeal. Dasti order be given to the counsel for the respondents.

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(Birbal Nath)
Member

(G. Ramanujam)
Vice Chairman

Dated:- 23.6.87.