

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL NEW DELHI

O.A. No. OA 1731/93
~~T.A. No.~~ MP 2290/93

199

DATE OF DECISION 01-10-93

Shri Virender Singh & Ors.	Petitioner
Shri B.S.Maine	Advocate for the Petitioner(s)
Versus	
Union of India	Respondent
	Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. Shri N.V.Krishnan, Vice Chairman (A).

The Hon'ble Mr. Shri B.S.Hegde, Member (J).

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 ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

ORAL

JUDGEMENT

(Hon'ble Shri N.V.Krishnan, Vice Chairman(A))

Present Shri BS Mainee for the applicant. He has also filed MP 2290/93 to file a joint application of the applicants. We have heard. The applicants had earlier filed DA No.1600/92 which was disposed of by an order dated 12-5-93 in the Principal Bench (An.A4) *as follows*:-

"Having heard the learned counsel for the parties, we are of the opinion that this application is a slightly misconceived one. The petitioners have approached this Tribunal on a mere apprehension. The disciplinary authority, it appears, has given a show cause notice in a routine manner. He has not applied his mind at all. If he is really intending to discharge with the report of the enquiry officer, it shall give a fresh notice to the petitioner stating his reasons and thereafter the petitioners will have a right to file a detailed objections. The punishing authority shall examine the Enquiry Officer's Report with an open mind and pass orders keeping in view the explanation offered by the petitioners. He shall act strictly in accordance with law."

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After the A4 judgment was delivered, the then respondents Assistant Engineer, Northern Railway, Ambala has issued an identical notice dated 30-7-93 to all the applicants (An.A1 Collectively). The An.A1 notice is almost similar in contents as the notice which was issued on the earlier occasion and considered in the An.A4 judgement. It does not state that the Disciplinary Authority has disagreed with the E.O's report. The learned counsel points out that this notice suffers from the same defects as the earlier notice considered in An.A4 judgement. In the circumstances, the applicants have prayed to quash the impugned An.A1 notices.

2. We have heard the learned counsel. We wanted to know how this O.A. is maintainable when almost similar notices (An.A3) dated 24-6-92 were considered in the O.A.1600/92 and certain specific directions were issued to the respondent in case he intended to issue a notice to the applicant disagreeing with the E.O's report. We wanted to know more specifically whether, in the circumstances, the applicants should not have initiated proceedings ~~in~~ contempt against respondent No.3.

3. The learned counsel for the applicants submitted that the applicants are entitled to file this O.A also, seeking protection of this court and hence this application is maintainable.

4. We are unable to agree. A similar-~~may~~ identical-cause of action-had arisen on an earlier occasion and in the OA 1600/92 filed by the applicants, the respondents were given directions in the An.A4 judgment to issue a proper notice after giving the reasons for disagreeing with the report of the Enquiry Officer. If the applicants are aggrieved that the respondents

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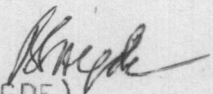
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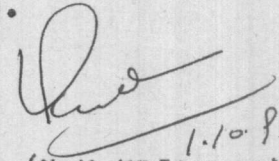
have not done so, but have again issued a similar notice as on the earlier occasion, they cannot file a fresh O.A. for directions/orders, for, such directions/orders have already been given by the A4 judgement. The case of the applicants could be that the A1 notice is in violation of previous An.A4 judgment and therefore, amounts to contempt of court.

5. In the circumstances, the learned counsel for the applicant seeks permission to withdraw the application to either seek other remedies or to participate further in the D.E. proceedings.

6. The applicant is therefore permitted to do so on the above terms. In case the applicants are aggrieved by any order passed by the respondents, it is open to them to challenge the same before the appropriate forum.

7. O.A. is dismissed as withdrawn.


(BS HEGDE)
Member (J).


1.10.83
(N.V. KRISHNAN)
Vice Chairman (A)