

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

R.A.No. 1 OF 1993

in

O.A. No. 317 OF 1988.

~~T.A. No.~~

DATE OF DECISION 2.3.1993.

Divisional Railway Manager(E) & Ors. Petitioners (Orig. Respondents)

____ Advocate for the Petitioner(s)

Versus

H.C. Raval & Ors. Respondents (Orig. Applicants)

____ Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. N.V. Krishnan, Vice Chairman.

The Hon'ble Mr. R.C. Bhatt, Judicial 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 ? ✓
4. Whether it needs to be circulated to other Benches of the Tribunal ? ✓

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Divisional Railway Manager(E),
Western Railway, Rajkot,
on behalf of the Union of India.

.... Applicant.
(Orig. Respondents)

Versus.

H.C. Raval & Ors.

..... Respondents.
(Orig. Applicants)

Decision by circulation.

ORDER

R.A.No. 1/1993

in

O.A.No. 317/88

Date: 2.3.1993.

Per: Hon'ble Mr. R.C. Bhatt, Judicial Member.

This Review Application can be disposed of by circulation. The original respondents have filed this review application for reviewing the order passed by this Bench in O.A. 317/88 dated 29th September, 1992. There is also an application for condonation of delay filed by the original respondents. The delay is of eight days in filing this review application and we condone the delay.

2. The respondents have alleged in the review application that the matter was decided on the basis of Mohd. Ramzan Khan's case that before passing the original order the inquiry report should have been given to the delinquent, which was not given and therefore, the order of the disciplinary authority was quashed and set aside and the application was allowed. It is alleged in the application that the

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ratio of the decision of Mohd. Ramzan Khan's case is not applicable inasmuch as that the Hon'ble Supreme Court as well as the Full Bench of the Tribunal has clearly decided that the ratio will not apply retrospectively but only prospectively. It is alleged in the review application that the removal ^{in this case was} order passed before the decision of the Supreme Court ^L or the decision of the Full Bench of the C.A.T and therefore, there is an error of law in applying the ^{re Mahmood Ramzan Khan's case} ratio of ~~those~~ judgment. It is also alleged that this Tribunal has also not considered the background of the historical decision given by the Hon'ble Supreme Court and the Full Bench of the Administrative Tribunal.

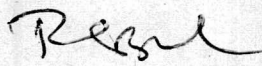
3. It is important to note at this stage that the point regarding the prospective effect of the judgment in Mohd. Ramzan Khan's case was never taken at the stage of arguments on behalf of the respondents. Reading the judgment, it is clear ^{re quo} that ~~any~~ where the respondents have urged that the decision given in Mohd. Ramzan Khan's case does not apply to the facts of this case. More over in the review application also no citation either of the Hon'ble Supreme Court judgment or the judgment of the Full Bench of the C.A.T., is referred except that there is a such judgment.

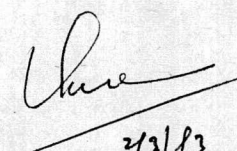
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4. We have pointed out at this stage that in Full Bench decision of the C.A.T in Balvantsingh Kumarsingh Gohil V/s. Union of India & Ors., reported in 1991(2) A.T.J. page 278, it has been held that the disciplinary authority has to furnish the inquiry report before inflicting any punishment on the delinquent giving an opportunity to make representation if any against the findings of the inquiry report. The respondents have not cited in the review application the decision of the Hon'ble Supreme Court subsequent to the decision given in Mohd. Ramzan Khan's case, but it appears that they have probably in mind the case decided by Hon'ble Supreme Court in Vishwanathan's case. It is also important to note that when Mohd. Ramzan Khan's case was decided, the Full Bench of the C.A.T in P.K. Sharma V/s. Union of India & Ors., (1988) 6 A.T.C page 904, also ~~held~~ laid down the same view which had binding effect on all the Tribunals which was subsequently confirmed in the case of Balvantsingh Gohil's case (supra). As observed above, the learned advocate for the original respondents had never urged before this Tribunal at the time of hearing of the Original Application that the ratio of Mohd. Ramzan Khan's case is not applicable nor any decision to the contrary was pointed out nor it was urged that it had prospective effect. As observed above, even in the review

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application, there is no citation of any judgment on which the respondents have relied. The decision given subsequently in Vishwanathan's case that the ratio of Mohd. Ramsan Khan's case will have prospective effect was not pointed out by the learned advocate for the respondents at the time of hearing of the Original Application and therefore, it can not be said that there is an error apparent on the fact of record. We, therefore, see no reason to review our judgment and hence the review application is rejected.


(R.C. Bhatt)
Member (J)


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(N.V. Krishnan)
Vice Chairman

vtc.