

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

R.A./14/1991 in
O.A. No. 77/1988
~~P.A. No.~~

DATE OF DECISION 20.4.1992

Union of India & Ors. Petitioner

Mr. N.S. Shevde Advocate for the Petitioner(s)

Versus

S.Y. Pathan Respondent

Mr. K.K. Shah Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. R.C. Bhatt : Member (J)

The Hon'ble Mr.

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 ?

2

Union of India & Ors.

... Applicant.

(Original respondents)

Vs.

S.Y. Pathan

... Respondents
(Original applicant)

R.A. No.14 of 1991
in
O.A. No.77 of 1988

Order n
ORAL ~~ORDER~~

Date: 20.4.1992

Per: Hon'ble Mr. R.C. Bhatt

: Member (J)

The original respondents have filed pursis dated 6th April, 1992 to withdraw R.A. No. 14 of 1991. Mr. K.K. Shah learned advocate for the respondents has no objection. Hence R.A. No. 14 of 1991 is dismissed for want of prosecution. No order as to costs. R.A. is disposed of.

R.C. Bhatt
(R.C. Bhatt)
Member (J)

*Kaushik

By circulation

MAST-244/91

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD.

RA/MA/DA/TA/ 14 1991. in OA/77/88

Union of India & ors Applicant(s).

Mr N S Shrivastava Adv. for the
Petitioner(s)

Versus

S Y. Pathan Respondent(s)

PHT
SSK

Mr K. K. Chahal Adv. for the
Respondent(s)

| SR. NO. | DATE | ORDERS |
|---------|------|---|
| 2 | | <p>Review</p> <p>The OA/77/88 was decided by the Hon'ble Mr. P. H. Trevedi & Hon'ble Mr. S. Suresh Kumar Krishnaiah J. M on 16.4.91. So we may place this RA for review by Circulation before Hon'ble Mr. P. H. Trevedi & Hon'ble Mr. S. Suresh Kumar Krishnaiah J. M.</p> <p>30 OCT 11/7 DR 11/7</p> <p>Place & before 12/7/91 my much By 11/7</p> <p>20/4/92 F/Od Do withdrawal Disposed 20/4/92 K. K. Chahal</p> |

File 200
on 10/7/91

Copied

(4)

CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

AHMEDABAD.

Submitted:

C.A.T./JUDICIAL SECTION.

Original Petition No: _____

of _____

Review
Miscellaneous Petition No: _____

of _____

1991

Shri

W. T. & Co

Petitioner(s)

Versus.

Sy. Pathan

Respondent(s).

This application has been submitted to the Tribunal by Shri *M. S. Shinde*. Under Section 19 of the Administrative Tribunal Act, 1985. It has been scrutinised with reference to the points mentioned in the check list in the light of the provisions contained in the Administrative Tribunal Act, 1985 and Central Administrative Tribunals (Procedure) Rules, 1985.

The Applications has been found in order and may be given to concerned for fixation of date.

The application has not been found in order for the reasons indicated in the check list. The applicant may be advised to rectify the same within 14 days/draft letter is placed below for signature.

ASSTT:

S.O. (J) :

D.R. (J) :

KNP/15391/****

15/3/91

Copy sent by Regd. A/D
post on 13/5/91
Shyam S. Sherade
Advocate
for N.S. Sherade
Advocate for Applicants

MA S7. 244/91
H-6-21

(52)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD

R. A. NO. 14 OF 1991

IN

O. A. NO. 77 OF 1988

Union of India & Ors...

... Applicants
(Original
Respondents)

V/s

S. Y. Pathan.....

... Opponent
(Original
Applicant)

APPLICATION FOR REVIEW
OF JUDGEMENT IN O.A.

NO. 77/88, Dated
16.4.1991.

The applicants- original respondents humbly
beg to submit as under:-

1. That the original applicant- opponent herein
filed O.A. NO. 77/88 stating inter alia that the
applicant was served with charge-sheet dated 4.9.85
and he filed reply to the same on 9.9.85, that the
applicant was suspended on 23.7.85 and his suspension
was revoked on 6.9.85, that on revocation of suspension
the applicant was posted as Ticket Collector at Godhra,
thereafter the applicant made a request for posting
him on the line, that the applicant was suffering the
loss of travelling allowance and it amounts to penalty

that the applicant was thereafter posted to work on train, that the disciplinary inquiry was ordered against the applicant with ulterior motive and with a view to victimise him, that in reply to charge-sheet the applicant requested for supply of certified/ original copies of the statements on which the charges were framed against him, that neither the original copies of statement nor certified copies thereof were supplied by the respondents and the applicant was told to take down the copy in handwriting if he so desired, failing which the enquiry will be initiated against him. that Shri Mahichand S., CMI, Godhra was appointed as Enquiry Officer and later on he was replaced by Shri C.V. Harshe (EIV), that both the Enquiry Officers were not of equal grade to the grade of Disciplinary Authority and not of the rank and status of the Disciplinary Authority, that appointment of such an Enquiry Officer is in contravention of the Disciplinary Rules and against the Constitution of India, that the whole case made out against the applicant is false, fabricated, without any cogent or direct evidence and the inquiry against the applicant is not initiated by a competent person, that the charge-sheet was in respect of 11 persons, whereas statements of only two passengers were recorded by the Vigilance Inspector in the absence of the applicant and CTI, that the charges levelled against

(8)

the applicant were not corroborated by any evidence, that the statements of backward persons were recorded by the coach attendance in Urdu, which could not be understood by the applicant, that the statements normally should have been recorded in Gujarati or Hindi, that the translation of the said statements was not supplied to the applicant and the Enquiry Officer without recording or examining the said witnesses proceeded with the inquiry, that the important witnesses were not examined during the inquiry, that the inquiry was conducted in violation of the provisions and rules of Railways and against the principles of natural justice and Articles 14, 16 and 311 of the Constitution of India, that the Disciplinary Authority passed order dated 17.11.86 awarding punishment of reduction to the lowest grade in the scale of Rs.260-400(R) fixing pay at ~~Rs.400~~ Rs.260/- for a period of two years with future effects and enclosed therewith Enquiry Report, that the Appellate Authority without applying its mind and considering the provisions of the law decided the appeal in a cavalier fashion, that the applicant preferred review application to DRM, Baroda, which was rejected by him and prayed for an order directing the respondents to continue the applicant as TTE from the date of disciplinary order in the same grade and to pay the arrears with consequential benefits and for quashing and setting aside the order passed by the Departmental

authorities on the grounds stated in the application.

2. That the original respondents- applicants herein filed written statement to the application contesting the said application and prayed for dismissal of the application.

3. That the said application O.A.NO.77/88 was heard and decided by the Hon'ble Tribunal by a judgement dated 16.4.91 holding that the impugned orders dated 2.5.87, 17.11.86 and 26.10.87 are illegal, void and are quashed and set aside and direct the respondents to take petitioner back in service to the post of TTE/GDA in the same grade in which he was working before the order of his punishment and granted liberty to the respondents to pass appropriate orders after giving an opportunity to the petitioner to make his representation on the Enquiry Report with no order as to costs.

4. Being aggrieved by the said judgement dated 16.4.91 passed by the Hon'ble Tribunal in O.A. NO.77/88 allowing the application to the extent stated in the judgement viz., quashing and setting aside the impugned orders and in directing the respondents to take the petitioner back in service to the post of TTE/GDA in the same grade in which he was working before the order of his punishment, etc. the applicants herein humbly beg to file this application for review on the following amongst other grounds, viz.:-

(1) That the judgement passed by the Hon'ble Tribunal is against the facts of the case and vitiated by error apparent on the face of the record.

(2) The Hon'ble Tribunal has erred in applying the ruling of the Hon'ble Supreme Court in the case of Union of India V/s Mohmad Ramzankhan reported in JT 1990

(4) SC 456.

(3) The Hon'ble Tribunal ought to have held that the decision of the Hon'ble Supreme Court in the case of Union of India V/s Mohmad Ramzankhan had prospective application and no punishment imposed should be open to challenge on the ground of non-supply of Enquiry Report and failure to afford an opportunity to make a representation against the said findings of the Enquiry Officer before passing the order of punishment by the Disciplinary Authority.

(4) The Hon'ble Tribunal has committed an error in quashing and setting aside the impugned order dated 2.5.87, 17.11.86 and 26.10.87 by placing reliance on the judgement of the Hon'ble Supreme Court in the case of Union of India V/s Mohmad Ramzankhan decided on 30.11.90, i.e. after about a period of three years from the date of impugned orders.

(5) The Hon'ble Tribunal has erred in relying upon the judgement of Three Member Bench of the Tribunal in Premnath Sharma's case, which is challenged by the Union of India in the Hon'ble Supreme Court and the matter is still pending for final decision in the

Supreme Court of India. It is, therefore, submitted that the issue is still pending before the Supreme Court for final decision.

(6) That there is error of law, mistake and sufficient cause to review the judgement of the Hon'ble Tribunal.

(7) The order of the Hon'ble Tribunal is otherwise erroneous.

(8) The applicants crave leave to add to, delete, amend or alter any of the grounds aforesaid at the time of hearing.

5. The applicants- original respondents pray that:-

(A) Hon'ble Tribunal will be pleased to grant this application and review the order dated ~~27.3.91~~ 16.4.91 passed in O.A.No.77/88.

(B) Any other order may be passed that the Hon'ble Tribunal deems fit and proper.

(C) Costs of this application may be awarded from the opponent.

VERIFICATION.

I, Vidhu Kashyap, age about 33 years, son of Shri B.B.Kashyap, working as Senior Divisional Personnel Officer, Western Railway, Baroda and residing at Baroda, do hereby state that what is stated above is true to my knowledge and information received from the record of the case and I believe the same to be true. I have not suppressed any material facts.

Baroda

Dated: 11.5.1991

Filed: 15.5.91

Vidhu Kashyap

Filed by
Learned Advocate for Petitioners
with second set & spares
copy served/not served to
other side

By Registrar C.A.T.O.
e BAO Bench

15/5/91