

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 56 OF 1989

~~A.A. No.~~

DATE OF DECISION 8.10.1992

Prakash Sanmukhlal, Petitioner

Mr. P.S. Handa, Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent s

Mr. N.S. Shevde, 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? ✗

Shri Prakash Sanmukhlal. Applicant.

V/s.

Union of India & Ors. Respondents.

ORAL ORDER

O.A.No. 56/1989

Date: 8.10.1992.

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

This matter was originally heard by the Division Bench of this Tribunal consisting of Hon'ble Mr. M.M. Singh, Administrative Member and one of us (R.C.Bhatt, Judicial Member) but as there was a difference of opinion between us, the matter was referred by the Hon'ble Chairman to the third Member, present Hon'ble Vice Chairman (Shri N.V.Krishnan). The Hon'ble Vice Chairman has passed the following order after hearing the learned advocates of the parties.

"17. It is thus clear that when the D.A proposes to disagree with the E.O's Report exonerating a delinquent, he is obliged to give a copy of his Report to him and also inform him about his disagreement with the findings of the E.O and the tentative conclusions about his guilt and give him a chance to represent his view point before a final decision is taken in the matter. Therefore, I agree with the view taken by the Hon'ble Judicial Member in regard to this issue. The Registry is directed to communicate this decision to the parties and place it before the Division Bench for passing a final order."

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2. This is how the matter has come before the Division Bench to pronounce the judgment according to the majority opinion. The Hon'ble Vice Chairman has agreed with the opinion given by one of us (R.C. Bhatt, Judicial Member) and that being the majority view the pronouncement is made today as under, in view of Section 26 of the Administrative Tribunal Act, 1985.

ORDER

The impugned orders passed by the disciplinary authority, appellate authority and reviewing authority against the applicant are quashed and set aside. The respondents are directed to reinstate the applicant within one month from the date of the receipt of the copy of this order by them. However, the disciplinary authority will be at liberty to proceed with the disciplinary proceedings by first informing the applicant that he does not agree with the findings of the Enquiry Officer, - as contained in the Enquiry Report, which was furnished to the applicant, with the impugned Annexure I order, which we have now ^{quashed} ~~quoted~~ and directing him to make his representation, if any, as to why he should not hold him guilty of the charges. He may, thereafter, pass such orders in accordance with law, as he finds appropriate after considering such representation. The manner in which the period

from the date of his removal upto the date of his reinstatement in service in compliance with this order spent by the applicant in the proceedings is to be decided would depend upon the ultimate result of the departmental proceedings. The application is allowed to the above extent. The application is disposed of.

No orders as to costs.



(R.C. Bhatt)
Member (J)



(N.V. Krishnan)
Vice Chairman

VTC

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M.A./272/89

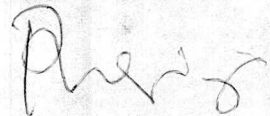
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O.A./56/89

CORAM : Hon'ble Mr. P.H. Trivedi .. Vice Chairman

10.11.1989

Mr. P.S. Handa and Mr. N.S. Shevde, learned advocates for the petitioner and respondents present. Learned advocate for the respondents to place on record the date of communication of the decision on the revision application as stated in para 4 of the reply with reference to which whether there was any delay and if so the extent thereof has to be ascertained within 15 days. Registry to post the case accordingly.



(P H Trivedi)
Vice Chairman

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Coram : Hon'ble Mr. P.H. Trivedi

: Vice Chairman

4/12/1989

Mr.P.S. Handa, learned advocate for the applicant present. 15 days time allowed to the learned advocate for the respondent to produce the documents referred to in the order dated 10.11.89 in the Misc.Application 272/89 with the observation that if the respondents fails to do so, the case will be proceeded with on the presumption that such a documents does not exist and *will not* be relied upon subsequently by the respondent.

P.H. Trivedi
(P.H.Trivedi)
Vice Chairman

a.a.bhatt