

NO
Review

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

R.A.No. 46 OF 1992

in

O.A. No. 57 OF 1989

~~Exhib~~

DATE OF DECISION 7.1.1993

Divisional Railway Manager(E), Petitioner
(Orig. Respondent)

Mr. B.R.Kyada, Advocate for the Petitioner(s)

Versus

Smt. Umaben Bechar, Respondent
(Orig. Applicant)
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 ? ✗

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

..... Applicant
(Orig. Respondent)

(Advocate: Mr. B. R. Kyada)

Versus.

Smt. Umaben Bechar
Widow of late Shri Bechar Baba,
Katward, Post Moyad,
Taluka Prantij
Dist: Sabarkantha.

..... Respondent.
(Orig. Applicant)

ORDER

R.A.No. 46 OF 1992

in

O.A.No. 57 OF 1989

Decision by circulation.

Date: 7.1.1993.

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

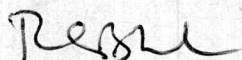
This review application is filed by the original respondent No.2, Divisional Railway Manager (E), Western Railway, Rajkot, seeking the review of the judgment given in O.A. 57/89 by this Bench on 13th October, 1992. The grounds on which this review application is filed are that this Tribunal has committed an error of law by applying the decision of the Supreme Court in alleged that Mohd. Ramzan Khan's case. It is / the same is not applicable retrospectively but it is applicable prospectively only. It is alleged in the review application that the Hon'ble Supreme Court as well as the Full Bench of the Tribunal has decided that the ratio of the said decision will not apply retrospectively but will apply prospectively. It is important to note

that the judgment was dictated in the open court in presence of the learned advocates for the parties meaning thereby it was an oral judgment given by this Tribunal on 13th October, 1992 and neither in the arguments nor at the time when this oral judgment was dictated by this Tribunal it was pointed out by the learned advocate for the respondents that the ratio of Mohd. Ramzan Khan is not applicable to the facts of the present case. It is important to note that the respondents had not seriously disputed before us that the finding of the enquiry officer were sent to the delinquent along with the decision of the disciplinary authority and therefore, the ratio of the decision of the Hon'ble Supreme Court in Mohd. Ramzan Khan case was made applicable to the facts of the case inasmuch as that no opportunity of making representation against findings of the Inquiry Officer was given to the delinquent before the disciplinary authority took the final decision and therefore, the principle of natural justice was violated which made the order illegal. As observed above, neither in the arguments nor while the judgment was dictated, it was ever pointed out by the learned counsel for the respondents that the ratio of the decision of Mohd. Ramzan Khan's case was not applicable to the facts of the case nor any decision on that point was pointed out nor any such decision is referred to in this review application. On the contrary, the Full Bench of the Central

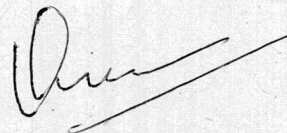
Administrative Tribunal has decided in Balwant Singh Kumar Singh Gohil, V/s. Union of India & Ors., reported in 1991(2) Administrative Tribunal Judgments, page 278 as under: "The law laid down by the Supreme Court in the case of Union of India & Ors. V/s. Mohd. Ramzan Khan is applicable to all cases where finality has not been reached and in cases where finality has been reached, the same cannot be reopened

The law laid down by the Supreme Court in the above case is binding on all concerned." The Full Bench while deciding this case held that the use of word "but this shall have prospective application and no punishment imposed shall be open to challenge on this ground", referred to case which have been heard and decided by the Division Bench of the Supreme Court earlier and those case will not be reopened. In short, it has been held as per this Full Bench decision that all those cases which are pending before any Court of law or Administrative Tribunal in which punishment has been inflicted, a plea of not having been provided with a copy of the inquiry report can be raised as infringing the rules of natural justice. Therefore, the averments made in the review application that the Full Bench has clearly decided that the ratio will apply prospectively

is not correct. The interpretation is already given by the Full Bench as observed above. Again at the sake of repetition ^{we} / observe that the learned advocate for the respondents had neither in his arguments before us at the time of hearing of O.A. 57/89 or when the oral judgment was dictated pointed out the decision of the Supreme Court to the contrary. More over no such decision is referred to in this review application. In this view of the matter, we hold that there is no error apparent on the face of the record committed by the Tribunal in deciding the case of O.A. 57/89 and none of the ingredient of Order 47 of Rule 1 of C.P.Code are attracted in this case. This review application is disposed of by circulation and the same is dismissed.



(R.C.Bhatt)
Member(J)



(N.V.Krishnan)
Vice Chairman

vtc.