

IN THE CENTRAL ADMINISTRATIVE TRIAUNAL
AHMEDABAD BENCH

O.A. No.
~~TA No.~~ 381 of 1991.

DATE OF DECISION 19.2.1992

Taruk Taiyabali Petitioner

Shri U.M. Shastri Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

Shri N.S. Shevde Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. M.Y. Priolkar Member (A)

The Hon'ble Mr. R.C. Bhatt 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?

Taruk Ta~~fi~~yabali,
Rama Bharwad's Chawl,
Village - Nandej,
Barejdi,
Dist. Ahmedabad.
(Advocate - Mr. U.M. Shastri)

.. Applicant

Versus

1. Union of India,
Through :
General Manager, W. Rly.,
Churchgate, Bombay.
2. Senior Divisional Safety Officer,
Baroda Division, W. Rly.,
Baroda.
3. Divisional Railway Manager(E),
Western Railway,
Pratapnagar,
Baroda.
4. The A.D.R.M.,
Western Railway,
Pratapnagar,
Baroda.

(Advocate-Mr. N.S. Shevde) .. Respondents

O.A. No. 381 of 1991

O R A L - J U D G M E N T

Present : Mr. U.M. Shastri, learned advocate
for the applicant

Mr. N.S. Shevde, learned advocate
for the respondents.

Date : 19.2.1992

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

Heard learned advocate Mr. U.M. Shastri
for the applicant. This application is filed by
the applicant against the order of the appellate
authority (page 26) dt. 13th May, 1991 which is
an order by ADRM(II) BRC. The applicant has alleged

new

in the application that the concerned appellate authority without giving due weight to the order passed by this Tribunal in O.A. No. 504 of 1988 and without considering representation dt. 24th April, 1991 confirmed the order passed by the lower authority. The order passed by the Tribunal in OA/504/88 on 1st April, 1991 is produced at page 22. In order to appreciate the contention of the applicant, it is necessary to peruse the order of this Tribunal in OA/504/88 on which reliance is placed by the learned advocate for the applicant before us. The operative order of the Tribunal is as under :-

"In these circumstances, we direct that the case be remitted to the appellate authority for a fuller and more adequate appreciation on the aspect of economic hardship and for application of mind in regard to punishment to be imposed upon the petitioner. The case is disposed of accordingly. There shall be no order as to costs."

Learned advocate for the applicant submitted that the appellate authority has not duly considered this direction of the Tribunal. He submitted that the appellate authority should have reduced the punishment. Reading the order of the appellate authority dated 13th May, 1991, it appears very

pen

clear that the steel sheets were recovered from the possession of this applicant and five others. The misappropriation of the Railway material, according to the Railway Authority, was a serious offence. The plea that was taken by this applicant was that he resorted to this offence as he was not able to maintain his family on his salary. This plea is not accepted by the appellate authority, ultimately, the appellate authority held that the applicant had been guilty of gross misconduct as mentioned in the order and therefore, it was not desirable to reinduct a person with such antecedents. The scope of this Tribunal in reappreciating evidence in such matter is very limited. We cannot consider the evidence afresh as no illegality is committed by the appellate authority. The appellate authority has considered the question of economic hardship of the applicant and has also applied mind to the contention of the applicant. Having considered the direction of the Tribunal, the appellate authority came to the conclusion that in such a serious offence, plea of the applicant that he committed this offence because he was not able to maintain his family in his salary. In view of these facts, the order of appellate authority does not suffer from any illegality

and hence there is no ground for admitting the Original Application. Hence the application is rejected at the stage of admission. No orders as to costs.

Nesil

(R C Bhatt)
Member (J)

h

(M Y Priolkar)
Member (A)

*Mogera