

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

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NEW BOMBAY BENCH

Q.A.x No. 198
 T.A. No. 21/1987

DATE OF DECISION 28.7.1988

Shri Venugopalan

Petitioner

Shri Jaiswal

Advocate for the Petitioner(s)

Versus

Union of India & 4 others

Respondent

Shri S.R. Atre

(for Shri P M Pradhan)

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. B.C. Gadgil, Vice Chairman

The Hon'ble Mr. L.H.A. Rego, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement? - Yes
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement? / No
4. Whether it needs to be circulated to other Benches of the Tribunal?

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY

TRANSFERRED APPLICATION NO. 21/87.

Shri Venugopalan,
Poonam Hotel,
Govardhan,
Ghat Road,
NANDED.

...Applicant.

V/s

1. Union of India.

2. The Director,
Field Operations Division,
National Sample Survey Organisation,
Wing No. 6, West Block No. 8,
1st floor, R.K. Puram,
New Delhi - 110 022.

3. The Deputy Director,
Nagpur Zonal Office of
Field Operations Division
of the National Sample
Survey Organisation,
Nagpur.

4. The Assistant Director
Regional Office of
Field Operations Division,
of National Sample
Survey Organisation,
Aurangabad.

5. The Superintendent,
Sub-Regional Office
of the Field Operations
Division of the National
Sample Survey Organisation,
Nanded.

...Respondents.

Coram: Hon'ble Vice Chairman B.C. Gadgil.
Hon'ble Member (A) L.H.A. Rego.

ORAL JUDGMENT

(PER: B.C. Gadgil, Vice Chairman)

Dated: 28.7.1988

Writ Petition No. 516/1987 of the file of the
Bombay High Court, Aurangabad Bench, Aurangabad is
transferred to this Tribunal for decision.

The applicant was Assistant Superintendent
working with National Sample Survey Organisation. He was

removed from service by an Order dated 17.6.1982 (vide Exhibit A to the application). The order states that the applicant was convicted under sections 110/117 of the Bombay Police Act. The reason for such conviction was that the applicant consumed liquor and attended office under the influence of liquor. The order states that the Director considered the conduct of the applicant which led to conviction of the applicant and came to the conclusion, that his retention in service was undesirable. It is for this reason that the applicant was removed from service.

3. The applicant has not filed any appeal as such, against this order. However, he submitted a representation which was rejected on 13.6.1983. Thereafter he filed a Writ Petition in 1985 challenging his removal from service.

4. The respondents have resisted the application by filing their reply before this Tribunal. In substance, the contention of the respondents is that the conduct of the applicant was such that he did not deserve to be continued in service.

5. Rule 19(1) of the CCS(CCA) Rules provides that when a penalty is imposed on a Government servant on the ground of conduct which led to his conviction on a criminal charge, the disciplinary authority may consider the circumstances of the case and make such orders thereon as it deems fit. It is under this rule that the impugned order has been passed.

6. Shri Jaiswal for the applicant, contended, that the penalty imposed upon the applicant is disproportionate

to the offence committed by him. He drew our attention to the fact, that the Magistrate has sentenced the applicant to pay a fine of Rs.20/- and this was an indication that the offence was of a minor nature. The question as to whether the offence is of ⁴⁸ minor nature or not, will depend upon the facts and the circumstances of each case. In the present case, the allegation is that the applicant consumed liquor and attended office under its influence. In our opinion such conduct is reprehensible as it tends to grossly undermine discipline. It would, therefore, not be correct for Mr. Jaiswal to contend that the disciplinary authority should have taken a lenient view of such misconduct which resulted in conviction and removal of the applicant from service. It was suggested that the disciplinary authority should have held atleast a summary enquiry regarding the incident that led to conviction of the applicant. Reliance was placed on the decision of the Supreme Court in the case of The Divisional Personnel Officer Southern Railway and another V.T.R. Challappan, reported in 1975 SC 2216. However, that view has not been approved by the Supreme Court in the subsequent decision in Union of India and another V. Tulsiram Patel, reported in 1985 SC L&S 672. In fact the subsequent decision overrules Challappan's case in so far as this aspect is concerned. What has been held in Tulsiram Patel's case is that the Disciplinary Authority has to consider the various circumstances ex parte and that it is not necessary to hold an inquiry as such. The impugned order, therefore, would not be void in the absence of any inquiry as contended by Mr. Jaiswal.

7. There is one more point which goes against the applicant. We have already observed that the impugned order was passed in 1982. The representation made by the applicant was rejected in 1983 and the applicant filed Writ Petition No. 516/1985 in the year 1985. There has been inordinate delay in filing the writ petition which has not been satisfactorily ^{explained} contained for condoning that delay. The application is liable to be rejected on laches also. However, we make it specifically clear, that we are deciding the matter on merits as detailed above.

The net result is that the application fails, and is dismissed. Parties to bear their own costs.


(L.H.A. Rego) 28.7.1988
Member (A)


(B.C. Gadgil)
Vice Chairman