

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 382/87
RxNo.

198

DATE OF DECISION 8.8.1988

Shri K.S.Sidarayappa

Petitioner

Shri B.K.Hegde

Advocate for the Petitioner(s)

Versus

Union of India and three others Respondents

Shri J.D.Desai (for Mr.M.I.Sethna) Advocate for the Respondent(s)

CORAM

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

Smt.

The Hon'ble Mr. J.A.Dayanand, Member (A)

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?

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY 400 614.

OA.NO. 382/87

(2)

Shri K.S.Sidarayappa,
28/1A/2A, Sasane Nagar,
Hadapsar, Pune 411 028.

Applicant

V/S.

(Advocate Shri B.K.Hegde)

1. Union of India
through the Secretary,
Ministry of Defence,
New Delhi 110 011.
2. The Engineer-in-Chief,
Army Head Quarters,
Kashmir House,
New Delhi 110 011.
3. The Chief Engineer,
Head Quarters,
Southern Command,
Engineers Branch,
Pune 411 001.
4. The Chief Engineer,
Dry Dock and Vishakhapatnam Zone,
9, I R S D Area,
Visakhapatnam - 8.

Respondents

(Advocate Sh.J.D.Desai for
Sh.M.I.Sethna)

CORAM: HON'BLE VICE CHAIRMAN SHRI B.C.GADGIL
HON'BLE MEMBER (A) SMT. J.A.DAYANAND

ORAL JUDGMENT

Dated: 8.8.1988

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

This application can be disposed of by a short order as mentioned below.

2. In 1983 the applicant was working as a 'Superintendent' E/M, Grade II in the office of Garrison Engineer, Pune. On promotion as Grade I officer, he was transferred to Vishakhapatnam. The applicant took charge of the posting at Vishakhapatnam on 29.7.1983. A Departmental Enquiry was held against the applicant on the basis of a charge-sheet. The Enquiry was held ex parte. The Enquiry Officer submitted his report and Chief Engineer, Southern Commandant has passed the impugned order of

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dismissal from service. The applicant preferred an appeal to the Engineer-in-Chief. The said appeal has been decided on 17.2.1987 and the appeal was dismissed (vide page 32 of the application).

3. It is common ground that the applicant was not given a personal hearing before deciding the appeal. Supreme Court has held in the case of Ram Chander vs. UOI 1986 (2) ATR 252 SC that the appellate authority should give an opportunity to the applicant of being heard and should pass the speaking order while deciding the appeal. The Supreme Court has remanded the appeal to the appellate authority with appropriate directions. In our opinion it would be in the fitness of things to direct the respondents to decide the appeal after following this procedure.

4. The appeal filed by the applicant against the dismissal order of 9.3.1986 is remanded to the appellate authority (i.e. Engineer-in-Chief) for fresh decision after giving an opportunity to the applicant of being heard. It is needless to say that the appellate authority would pass a speaking order. This order should be complied with within a period of four months from today. OA.NO. 382/87 is accordingly disposed of with these directions. Parties to bear their own costs of the application.

B.C.Gadgil
(B.C.Gadgil)
Vice Chairman

Jayawant
(Smt. J.A.Dayanand)
Member (A)