

(3)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY
NEXXXXXXX

O.A. No. 431 of 1987
TXXXXXX

DATE OF DECISION 7.10.1987

Umrao Tulshiram Malviya Petitioner

Mr. Y.B. Phadnis Advocate for the Petitioner(s)

Versus

Union of India and others Respondent

Advocate for the Respondent(s)

CORAM :

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

The Hon'ble Mr. P. Srinivasan, 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? — No
- 3. Whether their Lordships wish to see the fair copy of the Judgement? — Yes
- 4. Whether it needs to be circulated to other Benches of the Tribunal? — Yes

D.C.B.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY

O.A. No. 431/87

Umrao Tulshiram Malviya,
C/o Shyam Harsulkar,
2, Pavansoot Apartments,
Ram daspet, Nagpur-440 010

Applicant.

V/s

1. Union of India through
its Secretary,
Ministry of Railways,
New Delhi.

2. General Manager,
Central Railway,
through its Chief Operating Supdt.,
Bombay VT.

3. Divisional Railway Manager (Personnel)
Central Railway, Nagpur. Respondents

Coram : Hon'ble Shri Justice B.C.Gadgil, Vice-Chairman

Hon'ble Shri P. Srinivasan, Member (A)

Appearance

Mr.Y.B. Phadnis for
the applicant.

ORAL JUDGMENT
(per Shri B.C. Gadgil)

Dated : 7.10.1987

Mr.Y.B. Phadnis for the applicant and
Mr.B.S.Shandilya, Head Clerk, Office of the Divisional
Railway Manager, Nagpur for the Respondents. The
application is admitted. We have heard both
Mr. Phadnis and Mr.Shandilya.

2. The matter can be disposed of on a short point.
A departmental inquiry was held against the applicant
and the penalty of compulsory retirement was imposed
on him on 2.8.1984 by the Divisional Safety Officer
(vide Annexure 1). The applicant has preferred an
appeal against this order to the Additional Divisional
Railway Manager (ADRM), Nagpur. The said appeal
has been disposed of and a communication in that
respect is at Annexure 2. That communication states
that the Additional Bivisional Railway Manager has

B.C.G.

arrived at a conclusion that the findings of the disciplinary authorities are warranted by the evidence on the record and that the penalty imposed upon the applicant is adequate. It is thus clear that the appellate order is not a speaking order. Secondly, Mr. Phadnis submits that the applicant was not given an opportunity of being heard before deciding the appeal. The Supreme Court has in the case of RAMACHANDER V. UNION OF INDIA reported in ATR 1986(2) SC 252 has held that such an appellate order is bad. Under these circumstances it will be necessary to remand the said appeal to the Appellate Authority viz. the ADRM, Nagpur, for deciding the appeal in accordance with the directions of the Supreme Court in the above mentioned case. Hence we pass the following orders:

3. This application is partly allowed. The appeal decided on 6.9.1984 (Annexure 2) is quashed and the appeal dated 14.8.1984 filed against the punishment of compulsory retirement dated 2.8.1984 is remanded to the Appellate Authority viz. ADRM, Nagpur for a decision thereon. The said Appellate Authority is directed to give an opportunity to the applicant of being heard. In addition he should decide the appeal by a speaking order dealing with all the points that have been raised in the appeal Memo. The appeal should be decided expeditiously say within a period of four months from today. With these directions the application is disposed of. Parties to bear their own costs.

T. S. - 69
(P. SRINIVASAN)
Member (A)

B. C. GADGIL
(B.C.GADGIL)
Vice Chairman