

(16)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 198
T.A. No. 231 of 1987

DATE OF DECISION 8.8.90

Jahid Ali

Petitioner

None appears

Advocate for the Petitioner(s)

Versus

Divisional Mechanical Engineers & ors.
Respondent

Mrs. Bhedhade,

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. G. Sreedharan Nair, Vice Chairman.

The Hon'ble Mr. I.K. Rasgotra, 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?

(W)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL NEW BOMBAY BENCH
NAGPUR.

T.A.231/87

Jahid Ali ... Applicant.
versus
Divisional Mechanical Engineer,
South Eastern Railway, Nagpur
and others ... Respondents.

P R E S E N T :

The Hon'ble Sri G.Sreedharan Nair, Vice Chairman.

The Hon'ble Sri I.K.Rasgotra, Member(A).

For the applicant - None appears.

For the respondents - Mrs Bodhade, Advocate.

Date of hearing - 6.8.90

Date of Order - 8.8.90.

Q R D E R :

G.SREEDHARAN NAIR, VICE CHAIRMAN :

This relates to Writ Petition No.24/88 in
the High Court of Bombay, received on transfer.

2. The applicant, a Driver Grade 'C' under the respondents, was proceeded against by the issue of a Memorandum of Charges dated 5.8.1981 under Rule 9 of the Railway Servants (Discipline & Appeal) Rules, 1968, for gross neglect of duty. The applicant denied the charge. An enquiry was conducted. The Inquiry Officer reported that the charge is established. The Disciplinary Authority accepted the report of the Inquiry Officer and imposed upon the applicant the penalty of reduction to the lower post of Shunter for a period of three years.

3. The applicant prays for quashing the order of penalty. It is alleged that the finding of the Inquiry Officer is perverse and should not have been accepted by the Disciplinary Authority. There is also the plea

2.

(18)

that there is violation of Article 311 of the Constitution as before ^{the} imposition of the penalty no show cause notice was issued to the applicant.

4. The respondents have filed reply traversing the averments in the application.

5. On 6.8.1990 when this application was taken up for hearing, neither the applicant nor his counsel appeared. We have heard the counsel of the respondents. We have also perused the records.

6. On a reading of the report of the Inquiry Officer and the testimony of the witnesses examined in the course of the enquiry, we cannot subscribe to the view that the finding is perverse. This is not a case where the finding has been arrived at without any evidence at all.

7. As regards the plea of non-issue of a show cause notice before the imposition of the penalty it has only to be rejected, as such a notice is not required after the Constitution 42nd Amendment Act.

8. The application is dismissed.

Sukhpal
(I.K.Rasgotra) 74/9.
Member(A)

C 407/90
(G.Sreedharan Nair)
Vice Chairman.

S.P.Singh/
7.8.90.