

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

(11)

QcAccNOC

199

T.A. NO: 501/87

DATE OF DECISION 12.8.92

Shri J.A. Sequeira

Petitioner

Shri G.D. Samant

Advocate for the Petitioners

Versus

Union of India and others

Respondent

Shri R.K. Shetty.

Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. Justice S.K. Dhaon, Vice Chairman

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

1. Whether Reporters of local papers may be allowed to see the Judgement ? 45
2. To be referred to the Reporter or not ? 45
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 ? No

mbm\*

(S.K. DHAON)  
VICE CHAIRMAN

(12)

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH  
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Transfer Application No. 501/87

Shri J.A. Sequeira

... Applicant.

V/s.

Union of India and others.

... Respondents.

CORAM: Hon'ble Shri Justice S.K.Dhaon, Vice Chairman.  
Hon'ble Shri M.Y.Priolkar, Member (A)

Appearance:

Shri G.D. Samant, counsel  
for the applicant.

Shri R.K. Shetty, counsel  
for the respondents.

ORAL JUDGEMENT

Dated: 12.3.92

{ Per Shri S.K.Dhaon, Vice Chairman }

Sr. Divisional Electrical Engineer, Traction Rolling Stock Bombay on 3.1.85 passed an order withholding the increments of the applicant for a period of one year with effect from 1.11.85. The appeal preferred by the applicant was dismissed on 5.1.85. Thereafter, Suburban Railway Manager, Bombay dismissed the appeal preferred by the applicant under Rule 13 of the Railway Servants Disciplinary and Appeal Rules 1968. ~~The three orders~~ three orders are being impugned in the present application.

In substance, the charge against the applicant was that he, on 5.3.84, while working on certain Engine stabled the same in Igatpuri down yard on the engine line at 8.30 hrs. before completing the duty hours. Further, as per the standing instructions, he failed to give two hours written memo before stabling the engine in the traffic yard. The punishing authority proceeded on the assumption that both the charges stood proved against the applicant. The appellate authority confined its attention to the fact the applicant has stabled the engine without giving any prior notice. He assumed

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That the applicant has completed ten hours duty. The second appellate authority passed the following order: " Considered his act as dereliction of duty and do not consider the review of the penalty imposed necessary " ....

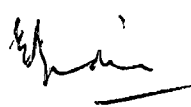
It is not in dispute that the applicant had a statutory right of appeal under Rule 18 of the afore mentioned Rule. Sub-Rule (3) of Rule 22 provides that the appellate authority shall consider all the circumstances of the case and make such orders as it may deem just and adequate. The appellate authority undoubtedly acted in a quasi-judicial capacity while disposing off the appeal. The rule making authority has deliberately used the word " consider" in Sub-Rule (3). The import of this word is that the appellate authority shall objectively determine the controversy raised before him and thereafter pass an order giving atleast some reasons so as to demonstrate that he has really applied his mind. The order of the second appellate authority as quoted above, in our opinion falls short of the requirements of Sub-Rule (3). The order is not only laconic but it also shows that the second appellate authority viewed the appeal with a firm view that the applicant had committed an act which amounted to dereliction of duty. The order, therefore, cannot be sustained.

The order of the second appellate authority is quashed. It is directed to pass a fresh order in accordance with law as expeditiously as possible but not beyond a period of three months from the

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date of receipt of certified copy of the order from the applicant. The applicant is permitted to transmit a certified copy of the order to the second appellate authority under registered post A.D.

There shall be no order as to costs.

  
(M.Y. PRIOLKAR)  
MEMBER (A)

  
(S.K. DHAON)  
VICE CHAIRMAN

NS/