

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. NO: -----
T.A. NO: 198/87

199

(68)

DATE OF DECISION 30-9-1992

Shaikh Hussain Shaikh Umar Petitioner

Mr.D.V.Gangal Advocate for the Petitioners

Versus

Union of India and ors. Respondent

Mr.G.K.Nilkanth 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 ?
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 ?

NO

mbm* MD

^{8/9}
(S.K.DHAON)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

(69)

Tr.198/87

Shaikh Hussain Shaikh Umar,
Railway Quarter No.RB/I/4/13,
Waldhuni,
Kalyan, Dist. Thane.

.. Appellant
(Original
Plaintiff)

V/s.

1. Union of India
through
The General Manager,
Central Railway,
Bombay V.T.
2. The Chief Mechanical
Engineer,
Central Railway,
Bombay V.T.
3. The Divisional Railway
Manager,
Central Railway,
Bombay V.T.
Bombay.

.. Respondents
(Original
Defendants)

Coram: Hon'ble Shri Justice S.K.Dhaon,
Vice-Chairman.

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

Appearances:

1. Mr.D.V.Gangal
Advocate for the
Applicant.
2. Mr.G.K.Nilkanth
Counsel for the
Respondents.

ORAL JUDGMENT:
Per S.K.Dhaon, Vice-Chairman

Date:30-9-1992

This appeal has been transferred to us from the file of District & Sessions Court Thane.

2. The appellant, a Khalasi, was dismissed from service on 21st June,1978. On 21st October,1978 the appeal preferred by him was dismissed. After giving a notice under Section 80 of the Civil Procedure Code, in April,1982 he filed suit No.220/82. In this pleaded, suit he inter-alia, that in the departmental

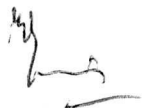
proceedings the principle of natural justice had been violated and even the necessary rules had not been observed. The trial court on 5th December, 1985 dismissed the suit No. 220/82 of the applicant. The appeal preferred by him before the District Judge was registered as Appeal No. 160/86 and that appeal is before us.

3. In paragraph 5 of the plaint it was averred by the appellant that the Appellate Authority did not give him a personal hearing before ~~it was~~ disposing of the appeal. This allegation has not been specifically denied in the written statement filed on behalf of the respondents. The appellate order is not before us. The record of the case is with Shri G.K. Nilkanth, the learned counsel appearing on behalf of the respondents. He is not able to produce the order inspite of our asking him to do so. However, on record, there is a communication dt. 21st October, 1978 saying that the appeal had been dismissed. It appears to us that, in fact, the appellant was not given an oral hearing by the appellate authority. In view of the judgment of the Supreme Court, that was a must. This shortcoming in the appellate order ^{is} enough to vitiate it.

4. The appeal succeeds in part. The judgment and decree dt. 20.11.85 passed by the trial court is set aside. The appellate order as communicated to the appellant by the communication dt. 21st October, 1978 is quashed. The Appellate Authority shall re-hear the appeal of the appellant after affording him an opportunity of personal hearing. The Appellate Authority shall

dispose of the appeal within the period of three months from the date of production of certified copy of this order by the appellant before it. The appellant is permitted to transmit a certified copy of this order to the Appellate Authority under Registered Post AD.

5. There shall be no order as to costs.


(M.Y. PRIOLKAR)
Member(A)


(S.K. DHAON)
Vice-Chairman

MD