

(9) (10)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. NO: 167/87

199

~~XXXXXX~~

DATE OF DECISION 3.11.1992

Shri Chandrapal Singh Petitioner

Shri D.V.Gangal Advocate for the Petitioners

Versus

The Commander, Station Headquarter Respondent
Colaba, Bombay.

Shri A.I.Bhatkar for Sh.M.I. Advocate for the Respondent(s)
Sethna.

CORAM:

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

The Hon'ble Mr. Usha Savara, 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 ?

ND

S.K.Dhaon
(S.K.Dhaon)
Vice Chairman

mbm*

(12) (11)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

OA.NO. 167/87

Shri Chandrapal Singh

... Applicant

V/S.

The Commander, Station Headquarters,
Colaba, Bombay-400 005.

... Respondents

CORAM: Hon'ble Vice Chairman Shri Justice S.K.Dhaon
Hon'ble Member (A) Ms. Usha Savara

Appearance

Shri D.V.Gangal
Advocate
for the Applicant

Shri A.I.Bhatkar
for Shri M.I.Sethna
Advocate
for the Respondents

ORAL JUDGEMENT

Dated: 3.11.1992

(PER: S.K.Dhaon, Vice Chairman)

The applicant, a Safaiwala, is aggrieved by the order dated 19.3.1983 purported to have been passed under Rule 5(1) of the CCS(Temporary Services) Rules 1965 whereby his services were terminated.

2. A reply has been filed on behalf of the respondents.

3. The admitted facts are these. On 15.10.1981 the applicant was issued a letter of employment to the effect that he had been appointed as Conservancy Safaiwala on probation for two years from the date of his actual appointment. The applicant during the course of his employment was called upon to cut grass and lift stones. He declined to do this work as according to him a Safaiwala was not expected to do the same. Eventually, the impugned order was passed. He preferred an appeal as provided by the statute on 11.4.1983, a true copy of the Memorandum of appeal was before us in the form of Annexure-II to the application.

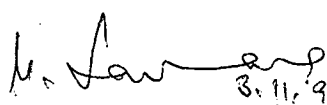
On 3.1.1985 the Civilian Staff Adhikari sent a communication to the applicant informing him that his appeal addressed to the Headquarters had not been accepted by the Appellate Authority.

4. Curiously enough, the respondents did not choose to enclose a copy of the Appellate order to their reply. The matter came up for hearing before us on 16.6.1992. On that date, we put-off the hearing of this application for two weeks so as to enable Shri Sethna, learned counsel for the respondents to produce before us the original order passed by the Appellate Authority. The matter is now listed today before us, the learned counsel for the respondents has produced before us the original order dated 2.7.1992 addressed to the Headquarters Military Sub-Area, Colaba by the Civilian Staff Adhikari on behalf of the Deputy Chief of the Army Staff. According to this communication, ^{the} file No.B/60741/SD-6.B in which the appeal of the applicant was considered by the Appellate Authority had been destroyed during the year 1991 and therefore the order of Appellate Authority cannot be produced. We may indicate that this application was presented before this Tribunal way-back on 8.4.1987. It is thus clear that the aforementioned record was destroyed or weeded out during the pendency of this application. At the first flush, we were inclined to direct the Appellate Authority to dispose of the appeal afresh. However, after giving a thoughtful consideration to the matter we feel that such a course will prove highly detrimental to the applicant as he is out of employment since the year 1983.

5. We have gone into the merits of the matter. In view of the order we are about to pass, we do not consider it desirable to make any comments on the merits of the impugned order.

However, we may note that it has been ~~sternly~~ urged by Shri Gangal on behalf of the applicant that having regard to the facts and circumstances of the instant case, the foundation of the impugned order appears to be some mis-conduct attributed to the applicant. Admittedly, the impugned order had been passed without affording any opportunity of hearing to the applicant. We feel that in the instant case the interest of justice requires that we should direct the respondents to give a fresh employment to the applicant as a Safaiwala. This shall be done by them within a period of one month from the date of production of a certified copy of this order by the applicant ^{before} to the Army Headquarters. The applicant is permitted to transmit ^a the certified copy of this order under Regd. Post A.D. We make it clear that the applicant will not be entitled to be either reinstated or paid any back wages.

6. With these directions the application is disposed of finally but without any order as to costs.


(MS. USHA SAVARA)
MEMBER (A)


(S.K. DHAON)
VICE CHAIRMAN

mrj.