

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

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NEW BOMBAY BENCH

O.A. No. 27/87

(98)

DATE OF DECISION 10/2/1988

Shri Gurubachan Singh Sarin. Petitioner

Shri G.S. Malia, Advocate Advocate for the Petitioner(s)

Versus

The General Manager, Central Railway, Bombay Respondent

& 3 OTHERS.

Shri V.G. Rego.

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. B.C. GADGIL, VICE-CHAIRMAN.

The Hon'ble Mr. J.G. RAJADHYAKSHA, 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?

(11) (90)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH? NEW BOMBAY

O. A. No. 27/87

Shri Gurbachan Singh Sarin,
Chetna Apartments
No.15/D Sardar Pratapsingh Road,
Bhandup,
Bombay 400078.

... Applicant

v/s.

1. The General Manager,
Central Railway,
Bombay.
2. The Divisional Railway Manager,
Central Railway,
Bombay.
3. The Senior Divisional Commercial
Superintendent; Central Railway,
Bombay.
4. The Divisional Commercial
Superintendent (I),
Central Railway,
Bombay.

... Respondents

Cerams: Hon'ble Vice Chairman, B.C. Gadgil
Hon'ble Member(A) J.G. Rajadhyaksha.

Appearance

Shri G.S. Malia
Advocate for
the Applicant

Shri V.G. Rego
Advocate
for the Respondents

ORAL JUDGMENT

Dated: 10-2-1988

(PER : B.C. GADGIL, VICE CHAIRMAN)

This matter can be decided by a short order and hence it is not necessary to give all the details of the litigation. Suffice it to say that the applicant was working with the Central Railway as Enquiry-cum-Reservation Clerk. A departmental enquiry was held against him on the basis of certain charges. After the Enquiry Officer submitted his report to the Disciplinary Authority an order dated 1st August, 1984 was passed whereunder the applicant was found guilty and was removed from

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service. The applicant had preferred an appeal. That appeal was unsuccessful. He had filed a review application, but that was not decided till the time the present application was filed.

2. It cannot be disputed before us that the Enquiry Officer's report was not supplied to the applicant before the Disciplinary Authority passed the impugned order. The effect of such omission has been considered by the Full Bench of this Tribunal in the case of Shri Premnath K. Sharma Vs. Union of India & Others (Transferred Application No. 2/1986). The Full Bench has held that the Enquiry Officer's report should be given to the applicant with a view to enable him to make his representations against that report and that if copy of such a report is not supplied before passing the final order the said order is vitiated. In view of this decision it would be necessary to pass an appropriate order on the lines similar to the one that is passed by the Full Bench.

ORDER

The application partly succeeds.

The impugned order dated 1.8.1984 removing the applicant from service is quashed. However, such quashing will not preclude the respondents from supplying a copy of the Enquiry Report to the applicant and giving him an opportunity to make his representation and proceeding to complete the disciplinary proceedings from that stage. The application is allowed to the extent indicated above but in the circumstances we make no order as to costs. If the respondents choose to continue the disciplinary proceedings and complete the same, the manner as to how the period already spent and that would hereafter be spent in the proceedings should be treated, may be decided by the concerned authority under the existing rules and the concerned authority

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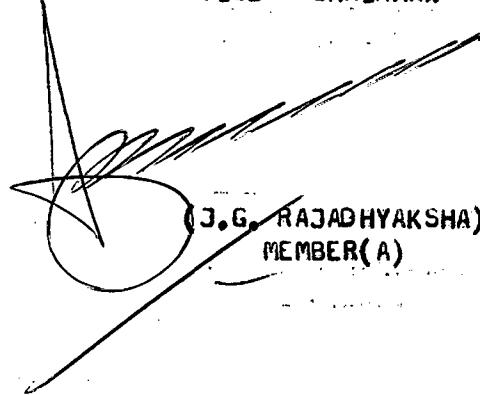
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may pass appropriate orders according to the rules. Nothing said herein would affect the decision of the disciplinary authority. At the same time, we hasten to add, that this order of the Tribunal is not a direction necessarily to continue the disciplinary proceedings. It is entirely left to the discretion of the Disciplinary Authority.



(B.C. GADGIL)
VICE - CHAIRMAN



J.G. RAJADHYAKSHA)
MEMBER(A)

Contempt Petition No.
8189 (at Flag 'A')
Decided on 26/3/89

884
15/2/89