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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

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NEW BOMBAY BENCH

O.A. No. 540 of 1987.  
T.A. No. - -

DATE OF DECISION 28.09.1987

Mr. G.B. Pardeshi Petitioner

Mr. T.K. Gupte Advocate for the Petitioner(s)

Versus

General Manager, India Security Press Respondent  
Nasik.

- Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. J.G. Rajadhyaksha, Member(A)

The Hon'ble Mr. M.B. Mujumdar, Member (J)

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

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW BOMBAY BENCH, NEW BOMBAY.

Original Application No. 540 of 1987.

Mr. Gendalal B. Pardeshi,  
Upper Division Clerk,  
India Security Press,  
Nasik Road.

...Applicant

V/s.

1. Union of India,  
through Secretary,  
Ministry of Finance,  
Department of Economic Affairs,  
New Delhi.

2. General Manager,  
India Security Press,  
Nasik Road.

...Respondents.

Coram: Hon'ble Member(A) J.G. Rajadhyaksha  
Hon'ble Member(J) M.B. Mujumdar

Appearance:

Mr. T.K. Gupte, Advocate  
for the applicant.

ORAL JUDGMENT :  
(Per : M.B. Mujumdar, Member(J) )

Dated : 28.09.1987

Heard Mr. T.K. Gupte, learned Advocate for the  
applicant regarding admission and interim relief.

2. The applicant who is working as Upper Division Clerk in the India Security Press, Nashik Road, has filed this application under section 19 of the Administrative Tribunals Act 1985 challenging some orders passed against him in the Departmental Enquiry which is held against him. On 1.6.85 one charge along with necessary accompaniments was served on him. In substance the charge was that the applicant had supplied bogus bus receipts purporting to have been issued by one transport company for the journey undertaken by some

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employees under the Leave Travel <sup>who</sup> Concession scheme claimed certain amount on the basis of the receipts from the India Security Press.

3. One Rastogi, Control Officer, was appointed as Enquiry Officer. After examining witnesses he submitted his report on 31.3.1986. We do not know what the report is because a copy of that report is not before us, as it was not given to the applicant. After receipt of that report the Disciplinary Authority i.e., the General Manager of the India Security Press has passed the following order on 24.6.1986:

"Whereas Shri G.B. Pardeshi, Upper Division Clerk, India Security Press, Nasik Road was Charge Sheeted vide No. 3312/PP-42, dated 1.6.85 under Rule 14 of CCS(CCA) Rules 1965, for supplying private bus operator's receipts to India Security Press workmen which were found to be bogus.

"And, whereas, charges were inquired into and the inquiry Officer submitted his report on 31.3.1986.

"And, whereas, the undersigned, as Disciplinary Authority, after going through the Inquiry Report, feels that the enquiry was not conducted properly and the Inquiry Officer has not gone into the charges framed against the charged official. It is, therefore, necessary to have de-novo enquiry into the same charges by appointing another Inquiry Officer.

"Now, therefore, the undersigned, hereby appoints Shri M.R. Bhandari, Asstt. Works Manager as the Inquiry Officer to inquire into the charges, framed against the said Shri G.B. Pardeshi, U.D.C. and to submit his report expeditiously."

4. After the above order was passed, Mr. M.R. Bhandari Assistant Works Manager was appointed as Enquiry Officer. Though in this application the applicant had challenged the order passed by the Disciplinary Authority on 24.6.86 directing that a de novo enquiry should be held against the applicant, the applicant did take part in the de novo enquiry. He had appointed Mr. T.K. Gupte Advocate, as his Defence Counsel. The applicant had asked by his application

dated 5.8.1986 for a copy of report of the Enquiry Officer, Mr. Rastogi, but that request was rejected on the same day. Three witnesses were examined before the Enquiry Officer during the enquiry and we are told that the Enquiry Officer has also submitted his report on 26.12.1986. We do not know what that report is. The only thing that now remains to be done is for the Disciplinary Authority to pass appropriate orders thereon.

5. However, before that order is passed the applicant has rushed to this Tribunal by filing the present application on 14.8.1987. But in our opinion his application is pre-mature as he should have waited till the order passed by the Disciplinary Authority and if that order would have been adverse to him he should have availed of the departmental remedies available to him before coming to the Tribunal.

6. Coming to the submissions urged on behalf of the applicant, Mr. Gupte firstly urged that ordering a de novo enquiry was bad in law and not consistent with the rules. Without expressing any final opinion on this point we may point out that the second enquiry is also now completed. The applicant did participate in that enquiry by engaging an advocate. Hence we are not now in a position to quash the de novo enquiry as being illegal.

7. Mr. Gupte's second submission was that we should direct the Disciplinary Authority to pass some appropriate order in view of the report of the first Enquiry Officer Mr. Rastogi. We cannot grant this prayer because it is clear from what we have stated above that the Disciplinary Authority has found that report to be not acceptable and that is why he has directed that a fresh enquiry should be held against the applicant.

8. The third submission of Mr. Gupte was that orders

for promotion of the applicant should be passed by this Tribunal. But he fairly admitted that this prayer is consequential to the first submission viz., quashing of the de novo enquiry. Obviously, we cannot grant this prayer as we have rejected the first submission.

9. The last grievance of Mr. Gupte however appears to be genuine. According to him though Mr. Bhandari has submitted his report on 26.12.1986 no orders are passed as yet by the Disciplinary Authority. We feel that in the interest of justice we should direct the respondents to pass some final order in the Departmental Enquiry.

10. In result, we pass the following order:

ORDER

- 1) The application is summarily rejected under section 19(3) read with section 20(1) of the Administrative Tribunal's Act, 1985.
- 2) The respondents shall however complete the departmental enquiry and pass some final orders as early as possible, if not already passed.
- 3) The applicant will be at liberty to approach this Tribunal if the order of the Disciplinary Authority goes against him after exhausting all the Departmental remedies available to him.

(J.G. RAJADHYAKSHA)  
Member (A)

(M.B. MUJUMDAR)  
Member (J)