

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

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NEW BOMBAY BENCH

O.A. No. 769/87
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DATE OF DECISION 18.1.1988

Shri Ramchandra K. Shinde Petitioner

Applicant in person. Mr. V. K. Pradhan Advocate for the Petitioner(s)
(Amicus Curiae)
VersusChairman, Post & Telegraphs Board Respondent's
New Delhi and three others
None for the Respondents 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? *Yes*

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 }

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

Original Application No. 769/87.

Shri Ramchandra K. Shinde,
House No. 34, Bhimnagar,
Post Office,
NAGPUR.

... Applicant.

V/S

- 1) Chairman Post and Telegraphs Board, New Delhi.
- 2) Director General Telecommunication Department, New Delhi.
- 3) General Manager, Telecommunication, Bombay.
- 4) Superintendent Central Telegraph, Office, C.T.O. Compound, Nagpur.

... Respondents.

Coram: Hon'ble Vice-Chairman, B.C. Gadgil.

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

Appearance:

Applicant, in person.

Mr. V.K. Pradhan, (Amicus Curiae)
for the applicant.

None for the respondents.

JUDGMENT:

Date: 18.1.1988.

(Per B.C. Gadgil, Vice-Chairman)

The applicant, who was a Telegraphman in the Telegraphs Department is challenging a penalty of compulsory retirement imposed on him after holding a Departmental Enquiry.

2. The matter was fixed for admission today. The applicant was not able to place properly all the relevant

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facts before us as he appeared in person. We, therefore, requested Shri V.K. Pradhan (Amicus Curiae) for the applicant to argue the matter properly. Accordingly he has argued the matter after taking instructions from the applicant. In addition, the applicant also made certain points. In our opinion the matter deserves to be summarily rejected for the following reasons. As stated earlier, the applicant was a telegraphman working at Nagpur. A Departmental Enquiry was held against him. The allegation was that on 18.7.1975 he was assigned the work of delivering 22 telegrams and that he did not do the same. On the contrary he was arrested by the police for some prohibition offence. The police took personal search of the applicant and found undelivered telegrams which were given to an Officer of the Postal Department for proper delivery. Necessary charge-sheet was framed on 29.8.1975. The applicant admitted the guilt. On the basis of this admission the Superintendent of Central Telegraph Office, Nagpur, on 15.10.1975, imposed the penalty of dismissal from service. The applicant filed an appeal to the Senior Superintendent, Telegraph Traffic. That appeal was decided on 21.11.1975. The penalty of dismissal from service was reduced to that of compulsory retirement. The applicant had filed a mercy petition to the President and that petition was rejected on 8.4.1978. The applicant filed another mercy petition to the President some time in May 1983. However, that petition was rejected on the ground that the matter was already considered and rejected. It is this penalty that is being challenged before us.

3. The applicant has not produced copies of any of the above mentioned orders. However, Mr. Pradhan, after going through the record which the applicant possessed, gave

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the above mentioned facts and there could not be any dispute about the facts.

4. The first question is to be considered is as to whether the application is in time. We have already observed that the President has rejected the mercy petition in 1978. The second petition filed in May 1983 also met with the same fate in 1983. Of course, the order of 1983 makes it clear that the application was not being entertained as no new material was raised for considering the matter afresh. The application is thus barred by time. The applicant has not given any reason as to why the delay in filing the application should be condoned. Apart from, that even on merits, the application deserves to be dismissed. In view of the admission of the guilt by the applicant, there was no question of holding any regular Departmental Enquiry. Consequently, it will not be possible for the applicant to contend that the said penalty was based upon an improper procedure.

5. Normally, the quantum of penalty would be in the discretion of the disciplinary authority and the appellate authority. This Tribunal would be slow to interfere with such quantum of punishment. Taking into account the allegations made against the applicant we do not feel that the applicant has made out any case for interference at our hands for modification of the penalty. It is true that ~~the~~ applicant has stated before us that he has one son and two daughters; and all of them are taking education. He has an aged mother. However, these circumstances would not be very much relevant, particularly when the appellate authority has itself shown leniency by reducing the dismissal order to that of compulsory retirement. The applicant admittedly gets a pension and relief thereon totalling Rs. 404/- per month.

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6. In view of the above discussion, there is no substance in the application and hence it is summarily dismissed.

B.C. Gadgil
(B.C. GADGIL)
VICE - CHAIRMAN.

(J.G. RajadhyaKsha)
(J.G. RAJADHYAKSHA)
MEMBER (A).

*Judge delivered in
Open Court today*