

(16)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY 400 614

Tr.A.No. 414/87

• Shri H.K.Pardeshi ... Applicant

V/S.

Union of India & others. ... Respondents

CORAM: Hon'ble Member (J) Shri M.B.Mujumdar
Hon'ble Member (A) Shri P.S.Chaudhuri

Tribunal's Order

Dated: 8.6.1989

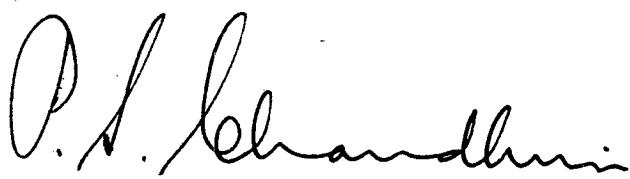
Heard Mr.L.T.Sawant for the applicant and Mr.J.D. Desai for Mr.M.I.Sethna for the respondents.

• 2. A charge sheet about gross misconduct dated 15.2.1979 was served on the applicant. After holding a departmental inquiry, he was removed from service by order dated 24.4.1979. The applicant has challenged that order by filing a suit in the court of the Civil Judge, Senior Division, Pune. The 5th Joint Civil Judge, Senior Division, to whom it was transferred, dismissed the suit with cost by judgment dated 8.2.1985. The appeal preferred by the applicant on 24.6.1985 in the District Court, Pune was numbered as Civil Appeal No. 212/87 and on 29.8.1987 it is transferred to this Tribunal by the Additional District Judge, Pune.

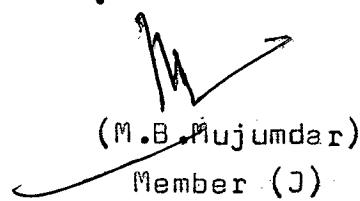
3. We may point out that a Full Bench of this Tribunal in P.K.Sharma's case has held that if the disciplinary authority finds a delinquent guilty and awards some penalty without supplying a copy of the Inquiry Officer's Report and without giving opportunity to him to make representation, then the order of the disciplinary authority will be vitiated. The respondents in that case preferred an appeal against the ^{have} decision to the Supreme Court and the Division Bench of the Supreme Court has referred the appeal to a larger Bench of the Supreme Court.

4. If we are to decide this case relying on the judgment of the Full Bench of this Tribunal in P.K.Sharma's case, then we will be required to allow the appeal. Of course, the applicant has not raised this point specifically, but he has challenged the order of the disciplinary authority on the ground that it was passed without following the principles of natural justice. An issue to that effect was also raised by the learned Civil Judge. We cannot forget that after the 42nd Amendment of the Constitution the rules regarding departmental inquiry were amended. The amended rules do not provide for supply of the report of the departmental inquiry to the delinquent. That is why the applicant might not have taken the point specifically in the plaint. But we cannot ignore the judgment of this Tribunal in P.K.Sharma's case.

5. Today, realising the position the applicant has filed an application raising the point specifically. The application be kept on record. Hence, we direct that this case be fixed for direction on 6.7.1989, that is, the date on which similar other matters are kept for directions. The applicant need not remain present on that date. When a date is fixed the applicant will be informed.



(P.S. Chaudhuri)
Member (A)



(M.B. Mujumdar)
Member (J)