

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

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NEW BOMBAY BENCH.

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T.A. No. 172/87

DATE OF DECISION 12.11.1987

Shri Bhagwandas B.Saini,
Petitioner

Shri Y.B.Phadnis
Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

Shri S.R.Atre.
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? — 49
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?



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY

Tr.Application No.172/87

Shri Bhagwandas B.Saini,
Sorting Assistant,
R.M.S.R.P.Division,
Nagpur,
Nagpur-18.

... Applicant.

V/s.

1. Union of India through Director
General P & T,
New Delhi.2.

2. Sr.Superintendent,
Post Office, Raipur
in Madhya Pradesh.

3. Shri Rajkumar Grover,
Record Officer,
R.M.S., R.P.Division,
Nagpur.

... Respondents.

Coram: Hon'ble Vice-Chairman Shri B.C.Gadgil.
Hon'ble Member(A) Shri J.G.Rajadhyaksha.

Appearances:

1. Shri Phadnis, Advocate
for applicant and
2. Shri S.R.Atre (for
Shri P.M.Pradhan) Counsel
for Respondents.

ORAL JUDGMENT: (Per Shri B.C.Gadgil, Vice-Chairman)
Dated: 12.11.1987.

The Writ Petition No.1119/1984 of the file of the High Court of Judicature Bombay Nagpur Bench is transferred to this Tribunal for decision. It is not necessary to give the detailed facts of the litigation, as the matter has to be decided on a short question. The applicant was a Postal employee. A departmental inquiry was held against him. On 19.4.1984 the disciplinary authority found him guilty of misconduct and imposed a penalty of compulsory retirement. The applicant preferred an appeal, that appeal was partly allowed, Misconduct was held proved.

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However, the penalty was modified and instead of compulsory retirement the applicant was reduced from a Group 'C' to a Group 'D' post. These orders are under challenge in this application.

2. It is not disputed before us that inquiry officer's report was not supplied to the applicant so as to enable him to make a representation before the disciplinary authority. The question as to whether a copy of such report is required to be given before the disciplinary authority passes an order is considered by the Full Bench of this Tribunal in the case of Shri P.K.Sharma v/s. Union of India (Tr. Application No.2/86) decided on 6.11.1987. The Full Bench has held that omission to supply such copy vitiates and enquiry and the final orders. Following the above mentioned decision of the Full Bench, we pass the following orders:

O R D E R

The application is partly allowed. The order of punishment of compulsory retirement dt.19.4.84 as subsequently modified in appeal by order dt. 3.6.1985 ^{to} reduction from a Group 'C' post to a Group 'D' post is quashed, as the applicant was not supplied with a copy of the Enquiry Officer's report as discussed in the above mentioned Full Bench Judgment. The penalty of reduction in rank therefore does not exist. Therefore, the applicant should be restored to a Group 'C' post w.e.f. 19.4.1984. We are informed that the applicant has not yet joined the Group 'D' post after the appellate order and on transfer to Bilaspur. The respondents are directed to post the applicant in a Group 'C' post wherever they can and the applicant should be allowed to join, if he desires to do so. The respondents may decide how the intervening period of applicant's absence from the date of the appellate order

i.e. 3.6.1985 to the date of our decision viz. 12.11.1987 should be treated by them.

It is however, made specifically clear that the disciplinary authority will be at liberty to proceed with the inquiry after supplying a copy of the report to the delinquent and after giving him an opportunity of making an effective representation about the said report. Thus the inquiry has to be proceeded with by the disciplinary authority from this ~~stage~~ stage viz. supply of copy of inquiry report. Parties to bear their own costs of this application.

B.C.Gadgil

(B.C.GADGIL)
VICE -CHAIRMAN

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