

(5)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 946/88

Transfer Application No:

DATE OF DECISION 24.8.93

S B Chiplunkar Petitioner

Mr. G S Walia Advocate for the Petitioners

Versus

UOI & Ors. Respondent

Mr. J G Sawant Advocate for the Respondent(s)

CORAM:

The Hon'ble Shri Justice M.S. Deshapnde, Vice Chairman

The Hon'ble Shri Ms. Usha Savara, Member (A)

1. ~~Whether Reporters of local papers may be allowed to see the Judgement ?~~
2. To be referred to the Reporter or not ? *W*
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 ? *W*

V.C
V.C

NS/

6

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, 'GULESTAN' BUILDING NO.6
PRESCOT ROAD, BOMBAY 1

OA NO. 946/88

Suresh Babaji Chiplunkar

Applicant

V/s

Union of India through
General Manager
Central Railway; Bombay VT & Ors.

Respondents

Coram: Hon. Shri Justice M S Deshpande, Vice Chairman
Hon. Ms. Usha Savara, Member (A)

APPEARANCE:

Mr. G S Walia
counsel for applicant

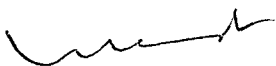
Mr. J G Sawant,
counsel for respondents

ORAL JUDGMENT:

(Per: M S Deshpande, Vice Chairman)

DATED: 24.8.93

This application is directed against the order passed by the disciplinary authority holding the applicant guilty and imposing the penalty of withholding one increment for a period of three years which came to be modified in appeal by curtailing the period from three to two years. The charge against the applicant was a minor one i.e., throwing some articles of furniture. In his reply he has denied the charge and stated that the charge is with prejudiced mind. The disciplinary authority without giving any reason for passing reasoned or speaking order merely filled up the form and imposed the penalty of withholding one increment for a period of three years. The appellate authority also did not apply its mind to the submissions which the applicant had made before it. The matter which could have been corrected at the appellate stage was not rectified. The applicant filed a revision application which also came to be rejected. The applicant

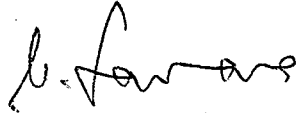



(5)

has, therefore, approached this Tribunal.

Shir Sawant, learned counsel for the respondents contended that this was an instance of minor penalty and it was not necessary in the circumstances to hold an inquiry in terms of rule 11 of the Railway Servants Discipline and Appeal rules. It is difficult to accept this submission in the present circumstances. There was a denial of the charge and there had to be some inquiry. What would be the scope of the inquiry would depend in every case on the peculiar facts of that case. We are only ~~restraining~~ ^{restraining} ourselves to the facts of the present case and we find that this was a case where the disciplinary authority should have held an inquiry and recorded findings. No evidence was recorded. ~~The~~ Reference was made only to the foreman's report in the matter and no reasons were given. This was a clear case of no evidence, non-application of mind both by the disciplinary authority and the appellate authority and we find that the order holding the applicant ~~guilty~~ ^{guilty} and imposing the penalty cannot be supported.

In the result the application is allowed and the order of appellate authority imposing the penalty is quashed. The applicant would be entitled to restoration of all the financial deprivation to which he was subjected. This be done within three months from the date of communication of this order to the respondents.


(Usha Savara)
Member(A)


(M S Deshpande)
Vice Chairman