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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 839/88

Amr AT NAGPUR.

Transfer Application No:

DATE OF DECISION

9/11/93

Shri N.R. Kumbhalkar.

Petitioner

Shri Isac.

Advocate for the Petitioners

Versus

Union of India & Anr.

Respondent

Shri P.S. Lambat.

Advocate for the Respondent(s)

CORAM:

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

The Hon'ble Shri N.K. Verma, Member(A).

1. Whether Reporters of local papers may be allowed to see the Judgement ?
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 ?


(M. S. DESHPANDE)
VICE-CHAIRMAN.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
BOMBAY BENCH, CAMP AT NAGPUR.

Original Application No.839/88.

Shri N.R.Kumbhalkar.

..... Applicant.

V/s.

Union of India & Anr.

..... Respondents.

Coram: Hon'ble Shri Justice M.S.Deshpande, Vice-Chairman,
Hon'ble Shri N.K.Verma, Member(A).

Appearances:-

Applicant by Shri Isac.

Respondents by Shri P.S.Lambat.

Oral Judgment:-

[Per Shri M.S.Deshpande, Vice-Chairman] Dt. 9.11.1993.

Heard Shri Isac, counsel for the applicant and
Shri P.S.Lambat, counsel for the Respondents.

2. The applicant was appointed as Khalasi in 1964. A departmental inquiry commenced against him on the basis of his continued absence for a period of about 10 months. The Disciplinary Authority imposed the punishment of removal by the order dt. 20.5.1985. The Appellate Authority quashed the inquiry and directed a fresh inquiry on 3.7.1985. The inquiry began with the same charge as before. The Disciplinary Authority by the order dt. 4.7.1984 found the applicant guilty of unauthorised absence from 7.11.1982 to 21.9.1982 and imposed the punishment of removal. The appellate authority dismissed the appeal on 2.9.1986.

3. The learned counsel for the applicant stated before us that he would not question the finding of guilty recorded by the authorities below, but only seek a personal hearing before the Appellate Authority

.....2.



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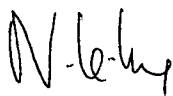
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regarding the quantum of punishment since he has put in nearly 22 years of service and he is 47 years old and that he would urge that this position should be taken into consideration before imposing the punishment on him.

4. In view of the decision of the Ramchander's case (A.I.R. 1986 SC 1173) the provision of personal hearing shall have to be read as included in the procedures for hearing the appeal. It appears that the applicant's registered letter and the reminder issued on 14.9.1987 seeking a personal hearing was not considered by the Revisional Authority, the Chief Personal Officer. The applicant merely on the basis of this order will not be entitled to ask for reinstatement until the appellate and revisional authorities findings are set aside.

5. We would therefore, set aside the order passed by the appellate authority so far as the quantum of punishment is concerned. The appellate authority shall give a personal hearing to the applicant only with regard to the quantum of punishment and the issued regarding the finding of guilty or otherwise shall not be re-opened hereafter. The appellate authority after hearing the applicant may impose such punishment as it considers just and proper in the facts and circumstances of the case within a period of three months.


(N.K. VERMA)
MEMBER (A)


(M.S. DESHPANDE)
VICE-CHAIRMAN

B.