

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**

## BOMBAY BENCH

O.A. No. 120/88 198  
T.A. No. --

DATE OF DECISION 3-6-1993

Tanaji Dashrath Tupe

**Petitioner**

Mr. Y.R. Singh

Advocate for the Petitioner(s)

## Versus

D.G. of Posts and two orgs.

Respondent

Me. P. M. Pradhan

### Advocate for the Response(s)

**CORAM:**

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

**The Hon'ble**  **Ms.Usha Savara, 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?

(M. S. DESHPANDE)  
VC

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

O.A.120/88

Tanaji Dashrath Tupe,  
Postman, Pune Head Post Office,  
Pune - 411 001.

.. Applicant

-versus-

1. Director General of Posts,  
New Delhi.

2. Director,  
Postal Services,  
Pune Postal Region,  
Pune - 411 001.

3. Sr. Superintendent of  
post Office,  
Pune East Div.  
Pune - 411 042.

.. Respondents

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

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

Appearances:

1. Mr.Y.R.Singh  
Advocate for the  
Applicant.
2. Mr.P.M.Pradhan  
Counsel for the  
Respondents.

ORAL JUDGMENT: Date: 3-6-1993  
¶Per M.S.Deshpande, Vice-Chairman¶

By this O.A. the applicant challenges  
the finding\$ of guilty recorded in the departmental  
enquiry and the punishment of withholding one  
increment.

2. The applicant was allotted a quarter  
on 17-2-83 and on 30-1-84 he was granted ~~permission~~  
to share the quarter with another person upto  
January,1985. In a surprise raid carried out on  
2-12-84, which was Sunday, the applicant was not  
found to be in the quarters and only the other

person was present. On 8-2-85 a notice to evict him from the quarter was given to the applicant. He made a representation against it on 21-2-85. A chargesheet was given to him on 6-8-85 regarding subletting of quarter. The applicant filed his reply on 16-8-85 and an order holding him guilty and imposing the punishment, as stated above, came to be passed on 31-10-85. Appeal dt. 4-12-85 against that order came to be dismissed on 30-8-86 and that is how the applicant approached this Tribunal.

3. On A perusal of the order passed by the Disciplinary Authority shows that the applicant was not found in the quarter which he was to share with the other person namely A.V.Neginhal. Only on that day A.V.Neginhal was present and since this showed exclusive possession of Neginhal the authorities came to the conclusion that he was subletting the entire quarters. The Inquiry Officer observed that the absence of the applicant and members of the family had not been satisfactorily explained by the applicant. Shri Pradhan pointed out to us that the applicant held the ration card in respect of these premises but he got the names of the other members of the family deleted from the ration card and though he was provided with the quarters all the family members were not staying with him. The very fact that the applicant had a ration card in his name in respect of this quarter was evidence to show that he was in occupation of the quarter and merely because his family was not staying with him at the relevant time it will make <sup>it</sup> ~~it~~ <sup>now</sup> show the position that the quarter was in exclusive possession of A.V.Neginhal. This aspect has been entirely overlooked by the disciplinary authority and by the appellate authority.

4. We find that the order holding the applicant to be guilty and imposing the punishment on him ~~was the result of~~ ~~thrusted upon entirely on~~ non application of mind and cannot be supported. In the result the application is allowed. The order holding the applicant guilty and imposing the punishment of withholding the increment are set aside. The amount so withheld may be refunded to the applicant together with other entitlements within three months from today.

*Usha Savara*  
(USHA SAVARA) 6/93  
Member(A)

*M.S. Deshpande*  
(M.S. DESHPANDE)  
Vice-Chairman

M