

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A. No. 752/88
T.A. No.

198

DATE OF DECISION 5-2-92

Shri Balu Bhikoba Sonavane Petitioner

Shri Sushil Kumar Advocate for the Petitioner(s)

Versus

Union of India Respondent

Shri P.M. Pradhan Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. JUSTICE U.C. SRIVASTAVA, Vice-Chairman.

The Hon'ble Mr. M.Y. PRIOLKAR, 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?

MGI:PRRN/ND-12 CAT/86-3-12-86-15,000

(U.C. SRIVASTAVA)
Vice-Chairman

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY

(6)

Original Application No.752/88

Shri Balu Bhikoba Sonawane ...

Applicant

vs

1) The Inspecting Assistant
Commissioner of Income Tax,
Pune Range-II ,Pune 411004.

2) The Commissioner of Income
Tax, Pune. ...

Respondents.

Coram: Hon'ble Shri Justice U.C.Srivastava
Vice-Chairman

Hon'ble Shri M.Y.Priolkar, Member(A)

Apperances:

Mr. Sushil Kumar Adv.for
Mr. D.V.Gangal Adv.
for the applicant

Mr. Bendre for
Mr. P.M.Pradhan Adv.
for the Respondents.

Dated: 5-2-92

JUDGEMENT:

(Per: U.C.Srivastava, Vice-Chairman)

The applicant started the Government service in the Income-tax Department in the year 1968 as a Peon. The applicant was placed under suspension by the order dated 1st July 1977 by the Income -tax Officer salaries and Redunds Circle-I , Pune. On 1st July,1975 Criminal Complaint about misappropriation was lodged to the Police of Bund Garden Police Station, Pune, by the Income Tax Officer, Pune. The applicant was prosecuted by the Special Judge Pune and was discharged on 15th June 1984 stating the reason that ' there is absolutely no material much less prima facie against him.' The applicant thereafter requested to Inspecting Assistant Commissioner of Income Tax to revoke the suspension order and grant the applicant full salary during the period of suspension. Inspecting Assistant Commissioner of Income-Tax Pune Region-II Pune revoked the order of suspension of the applicant and reinstated him by the order dated 17th August 1984.

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(S)

2. Lower Division Special Judge Judgement and order were challenged before the High Court and appeal was preferred by the Income Tax Officer. The matter was dismissed by the High Court. The applicant was acquitted by the Lower Division Special Judge.

The applicant was served with chargesheet stating the reason that he is responsible for mis-appropriation.

Applicant was punished by lowering his pay by one stage. His pay was fixed on Rs. 208/- by the order dated 3-6-86, in the time-scale of Rs. 196-3-220-3-232.

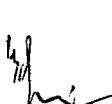
3. The statement of imputation of misconduct or misbehaviour in support of articles of charges are that the tax recovery Officer has found that some of the counterparts of challans were fake and bogus.

4. It is clear that there cannot be two punishments for the one crime. The application deserved to be allowed. There are number of other factors which attracts the principle of natural justice. The report is an adverse material if the Inquiry Officer records a finding of guilt and proposes a punishment so far as the delinquent is concerned. There is a charge and a denial followed by an inquiry at which evidence is led and assessment of the material before conclusion is reached.

This case attracts the Supreme Court Judgement Union of India v. Mohd. Ramzan Khan. (AIR 1991 Supreme Court 471. It has been held that "for dowing away with the effect of the enquiry report or to meet the recommendations of the Inquiry Officer in the matter of imposition of punishment, furnishing a copy of the report becomes necessary and it have of the processing completed by using some materials behind the back of the delinquent is a position not countenanced by fair procedure."

5. With this conclusion there is no case against the applicant. The order dated 3-6-1986 is quashed.

There will be no order as to costs.

4/1

(M.Y. Priolkar)
Member (A)


(U.C. Srivastava)
Vice-Chairman