

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY.

O.A.No. - 198-
T.A.No. 77 of 1986.

DATE OF DECISION 11.2.1987

Late Shri R.B.Pawar Applicant/s.
Heir: Smt. Sestabai R.Pawar.

Shri M.Arshad Haindaday Advocate for the Applicant/s.

Versus

Union of India & Two Others Respondent/s.
(B.A.R.C.)

Mr. Subodh Joshi with Mr. M.I. Sethna Advocate for the Respondent(s).

CORAM:

The Hon'ble Member (A) J.G.Rajadhyaksha
The Hon'ble Member (J) M.B.Mujumdar

1. Whether Reporters of local newspapers may be allowed to see the Judgment? *Yes*
2. To be referred to the Reporter or not ? *No*
3. Whether to be ciurculated to all Benches? *No*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY

Tr. Application No. 77 of 1986.

Late Shri R.B.Pawar,
Heir: Smt. Seetabai R.Pawar,
3/F/1, Shivaji Nagar,
Govandi - Bombay 400 043 .. **Applicant**

V/s

1. Shri S.Ranganathan or his successor
in office as Head, Personnel Division,
Bhabha Atomic Research Centre,
Central Complex,
Trombay - Bombay 400 083.
2. The Controller,
Appellate Authority
Bhabha Atomic Research Centre,
Personnel Division,
Central Complex,
Trombay - Bombay 400 083. ..
3. The Union of India .. **Respondents**

Coram: Hon'ble Member (A) J.G.Rajadhyaksha

Hon'ble Member (J) M.B.Mujumdar

Appearances

1. Shri M.Arshad Haindaday
Advocate for the applicant.
2. Mr.Subodh Joshi with Mr.M.I.Sethna
Advocates for the Respondents.

ORAL JUDGEMENT (Per M.B.Mujumdar) Dated: 11.2.1987.

The applicant (Original petitioner) the late Shri R.B.Pawar had filed a Writ Petition No.3298 of 1981 in the High Court of Judicature at Bombay challenging an order dated 30.10.80 of the Respondent No.1 by which he was dismissed from service. The Writ Petition stood transferred to this Tribunal under Section 29 of the Administrative Tribunals Act, 1985.

The facts that are necessary for the purpose of understanding the dispute may be stated as follows:-

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The applicant was serving as a Tradesman 'C' in the Reactor Operation Division of B.A.R.C. He was residing in a quarter of the Central Government organisation along with his family. His house was raided by the Assistant Security Officer of the B.A.R.C. on 1.10.77, 21.9.79 and on 19.2.80. On each occasion, five litres of liquor was found in his house. As regards the first two occasions, he was prosecuted by the police but in each case he was acquitted by the Metropolitan Magistrate by giving him the benefit of doubt.

By an order dated 18.4.1980, the B.A.R.C. decided to hold a departmental enquiry against the applicant. Accordingly, three articles of charge were framed. The charges were relating to the possession of liquor on the three dates mentioned above. One Mr.M.S. Gogia was appointed as Inquiry Officer and one Mr.A.C. Soman, Security Officer was appointed as Presenting Officer. The applicant chose to defend himself. On 22.7.80, Shri J.K.Shringy who was working as Assistant Security Officer and carried out the raids on the three occasions was examined by the Presenting Officer. As stated above, he ^{asserted} averred the finding of the liquor in the house of the applicant on all the three occasions. After the examination-in-chief was over, the enquiry was adjourned to 24.7.80. On that date, the applicant wanted to enter into a plea of 'guilty' but as he was without a defence assistant, the enquiry was adjourned by the Inquiry Officer to 1.8.80. On 1.1.80, the Inquiry Officer again explained all the charges to the applicant.

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Thereafter, the applicant unconditionally accepted all the charges levelled against him. One Mr.S.N.Nimbade, U.D.C. was called to explain to the applicant in Marathi as to what the Inquiry Officer had explained in Hindi. Thereafter, the applicant again pleaded guilty to all the charges. The Marathi words used by the petitioner, viz. "Mala Teenahi Arop Manjoor Ahet" were mentioned by the Inquiry Officer in his notes of proceedings. Thereafter, the Inquiry Officer submitted his report on 28.8.80 mentioning that that the applicant had unconditionally accepted all the charges and hence all the charges were proved.

On the basis of the report, the disciplinary authority i.e. Head, Personnel Division, accepted the findings of the Inquiry Officer and imposed the penalty of dismissal from service upon the applicant. The applicant, through his advocate, preferred an appeal against the said order of dismissal but he was informed by the authority that the appeal was not in proper form and that he may prefer his appeal in proper form. The applicant did, thereafter, prefer an appeal on 29.5.81 but it was dismissed by the Controller, the Appellate Authority, by an order dated 23.7.81.

On 8.9.81, the applicant filed a Writ Petition in the High Court. Unfortunately, he died on 24.5.82 leaving behind his wife, one son and one daughter. His wife is brought on record as his legal representative on 6.9.1982. Thereafter, the Writ Petition is transferred to this Tribunal as mentioned earlier.

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The applicant had stated in Para 13 of his application that after the examination-in-chief of Shri J.K.Shringy, he was not given an opportunity to cross-examine him but on the contrary he was forced, compelled and made to admit all the three charges levelled against him. Before us also, Mr.M.Arshad Haindaday, the learned advocate, submitted the same ^{contentions}, but after considering the record of the case, we do not find that there is any substance in any of the ~~pleas~~.

As already stated, Mr.J.K.Shringy, A.S.O. was examined at length on 22.7.80. The enquiry was then adjourned to 24.7.80. The notes of proceedings on that date show that the petitioner wanted to plead guilty on that date itself, but in all fairness the Inquiry Officer adjourned it to 1.8.80. On 1.8.80, the petitioner accepted all the charges ~~as~~ unconditionally and pleaded guilty. As the Inquiry Officer was not conversant with 'Marathi', he called one Mr.S.N.Nimbade UDC to explain all the questions and answers to the applicant in Marathi. After Mr.Nimbade explained the same to the applicant, he again pleaded guilty to all the charges. All these circumstances show that there is no substance in the allegation of the applicant that he was forced, compelled and made to admit all the charges.

We may refer to the application submitted by the applicant to the Inquiry Officer on 31.7.80. Therein, he admitted that he was a "famous drunkard" in the past but on medical advice, he had to reduce the drinking though he was taking drinks occasionally.

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In the next para, he stated that his wife was a "habitual drunkard" and for her own consumption she was hiding and keeping some bottles of liquor in the room. He had warned her from time to time to abstain from drinking but she had not given up that habit.

We would have liked to refrain from stating these contents of the application because the applicant is now no more, but we find it necessary to state these contents because the applicant's advocate ^{wrong} ~~had~~ made the same pleas which the applicant made in the application before us.

Mr. M. I. Sethna admitted that the appeal preferred by the Petitioner was dismissed by the appellate authority without giving a personal hearing to the applicant. We feel that the appellate authority should have given personal hearing to the applicant before deciding the appeal. But, we do not think that any useful purpose will be served now by finding fault with the order of the appellate authority at this stage.

On our directions, the Respondents have paid the P.F. Dues to the applicant's widow. In fact, when the applicant was dismissed from service, the widow was entitled to only the contributions made to the P.F. by the applicant himself and not to the contributions by the employer organisation.

It may be pointed out that the applicant had contributed to Contributory Provident Fund and a sum of Rs. 8778/- was liable to be refunded to him on dismissal.

The contribution of the Respondents was of Rs. 5111.00. The

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applicant's widow was not entitled to the latter amount. Still, by taking a sympathetic view, the Respondents released this amount in her favour, but adjusted the said amount towards recovery of arrears of rent due from the applicant and his widow. Thus, the applicant's widow has been given a sum of Rs.8778.00 i.e. the contributions of her husband made to his P.F. with interest that accrued thereon. If the Respondents had not taken a sympathetic view, the arrears of rent could have been recovered from this amount.

With this, we dismiss the application, with no orders as to costs.

(J.G.Rajadhyaksha)
Member (A)

(M.B.Mujumdar)
Member (J)