

(2)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH
(CAMP: NAGPUR)

Original Application No: 351/89

Transfer Application No:

DATE OF DECISION: 20.9.1994

Shri P.A.Ghongade

Petitioner

Shri Y.B.Phadnis

Advocate for the Petitioners

Versus

Sub-Divl. Inspector, DOP & Ors.

Respondent

Shri R.S.Sundaram

Advocate for the Respondent(s)

CORAM :

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

The Hon'ble Shri K.D.Saha, Member (A)

1. To be referred to the Reporter or not? NO
2. Whether it needs to be circulated to other Benches of the Tribunal? NO


(K.D.SAHA)

MEMBER (A)


(M.S.DESHPANDE)

VICE CHAIRMAN

(8)
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

CAMP : NAGPUR

DA. NO. 351/89

Shri Prashant Anandrao Ghongade ... Applicant

V/S.

Sub-Divisional Inspector,
Department of Posts,
Morshi, Dist. Amaravati & Ors. ... Respondents

CORAM: Hon'ble Vice Chairman Shri Justice M.S.Deshpande
Hon'ble Member (A) Shri K.D.Saha

Appearance

Shri Y.B.Phadnis
Advocate
for the Applicant

Shri R.S.Sundaram
Advocate
for the Respondents

ORAL JUDGEMENT

Dated: 20.9.1994

(PER: M.S.Deshpande, Vice Chairman)

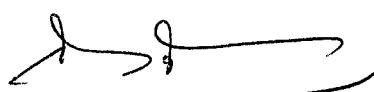
The applicant was appointed on 6.1.1986 as Extra Delivery Agent with the respondents and his services came to be terminated on 24.5.1988. The order of termination originally was an order simpliciter but the appellate authority upon ^{being} the move by the applicant passed an order on 31.10.1988 (Annexure-4). Para 2 of that order may be reproduced with advantage.

" 2. The records considered carefully speak mainly that (a) his provisional appointment was also less than 3 years, (b) his name was not sponsored by the Employment Exchange when time came for making appointment of a permanent nature, (c) there are ample instances of his bad work while he was in service and (d) cases of moral turpitude smacking of misdemeanour were registered and heard in Police/judicial courts respectively. I do not see therefore any reason to feel that the action taken by the appointing authority the SDI Morshi to be incorrect and to intervene."

2. Shri Phadnis, learned counsel for the applicant made it clear that should we pass an order of reinstatement with the liberty to the respondents to hold a departmental enquiry into the conduct of the applicant, he would not press back wages upto the date of his reinstatement. Shri Sundaram, learned counsel for the respondents urged that the order passed by the disciplinary authority terminating the applicant initially was an innocuous one without casting any stigma on the applicant. In his submission he states that even the appellate order reiterated that position. It is difficult for us to accept the contention that merely because the appointment was provisional and for less than 3 years and his name was not sponsored by the Employment Exchange at the time of making appointment of a permanent nature and the appointment which continued for well over 28 months could be set aside in the manner it was done. True under the terms of ^{employment} conditions, the respondents possibly could have had a right to terminate the applicant but if the termination is ordered by wording the appellate order in such a manner as would cast a stigma on the performance and antecedents of the applicant, certainly the applicant could not have been terminated without holding a departmental enquiry. The appellate order at Annexure-4 makes it clear that the reason for the termination was not as innocent as was sought to be made but because of his moral turpitude smacking of misdemeanour, the order of termination cannot, therefore, be supported.

3. In the result, we set aside the order of termination passed on 24.5.1988 (Annexure-2) with liberty to the respondents to hold a departmental enquiry into the conduct of the applicant.

These proceedings may be initiated within three months from today if the respondents want the conduct of the applicant to be examined. In view of the concession made by the applicant's counsel, the applicant would not be entitled to any back wages. The reinstatement be made within a month from the receipt of a copy of this order. The OA. is disposed of with this direction.



(K.D. SAHA)

MEMBER (A)



(M.S. DESHPANDE)

VICE CHAIRMAN

mrj.