

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO.: 905/89.

Dated this Wednesday, the 18th day of November, 1998.

CORAM : HON'BLE SHRI JUSTICE R. G. VAIDYANATHA,
VICE-CHAIRMAN.

HON'BLE SHRI D. S. BAWEJA, MEMBER (A).

Shri B. Ram ... Applicant
(By Advocate Shri S. Natrajan)

Versus

Union Of India & Anr. ... Respondents.
(By Advocate Shri S.S. Karkera
for Shri P. M. Pradhan).

TRIBUNAL'S ORDER :

In this O.A. the applicant is challenging the imposition of penalty of dismissal from service. On an earlier occasion, the applicant had approached this Tribunal and the previous order passed by the Disciplinary Authority was set aside and the matter was remanded to the Disciplinary Authority with a direction that the concerned Hon'ble Minister must give personal hearing to the applicant and pass a fresh order according to law. It appears, after remanding the concerned Minister gave personal hearing to the applicant and formed a tentative opinion or suggested a tentative punishment that the applicant should be compulsorily retired. Then an advice was sought from the U.P.S.C. who did not agree with the suggestions of the Hon'ble Minister but advised that dismissal from service is the proper penalty. Then the impugned order imposing the penalty of dismissal from service has been passed in the name of the President of India.

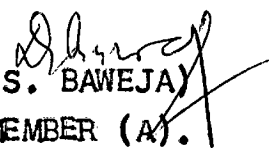
2. The submission of the applicant's counsel is, after the advice of the U.P.S.C., the papers were not placed before the Hon'ble Minister & but straight away the concerned officer has issued the impugned order of penalty in the name of the President of India. After hearing the arguments for sometime on the previous occasion, we directed the respondents by order dated 12.08.1998 to produce all the relevant records pertaining to this case by the next date of hearing. On 02.09.1998, the respondents were again directed to produce the records. The case underwent two more adjournments since Mr. S.S. Karkera on behalf of Mr. P. M. Pradhan, Counsel for the respondents, wanted time to get the records, since inspite of three, four letters he has not yet received the concerned records from Delhi.

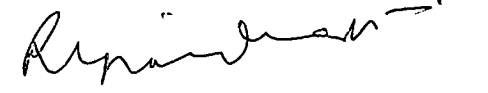
Today when the case is called out for further arguments, Shri S.S. Karkera on behalf of Shri P.M. Pradhan submitted that he has received all the records except the appeal record where the Minister has passed the order. The applicant's Counsel submits that deliberately the appeal record is suppressed by the respondents. But Counsel for the respondents submitted that the appeal record is not traced, as could be seen from the letter of the concerned Under-Secretary.

3. Since there is serious dispute between the parties and the applicant's counsel is asserting that the appeal record is deliberately suppressed, we feel that a responsible officer should file an affidavit ^{stating} whether the appeal records are available or not and if available, he

must produce it or if it is not available, he must state the circumstances under which the appeal record was dealt with and where it has been lost and how they are missing. Therefore, the respondents are directed either to produce the appeal record or file a proper affidavit by a competent officer who is aware of all the facts or who has dealt with the appeal file and the affidavit should be file on or before 14.12.1998.

Copy of the order be furnished to both counsels.


(D. S. BAWEJA)
MEMBER (A).


(R. G. VAIDYANATHA)
VICE-CHAIRMAN.

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dt. 18/11/98
Order/Judgment despatched
to Applicant/Respondent (s)
on 25/11/98

26/11/98