

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

[REDACTED]  
BOMBAY BENCH

O.A. No. 886/89

198

EX-ADDX

DATE OF DECISION 15-6-92

S D Chaptekar

Petitioner

Ms. Nagarkatti

Advocate for the Petitioner(s)

Versus

Union of India &amp; Ors

Respondent

Mr. R K Shetty

Advocate for the Respondent(s)

## CORAM :

The Hon'ble Mr.

Justice S K Dhaon, 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?

MGIPRRND-12 CAT/86-3-12-86-15,000

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S.W.  
V.C.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, "GULESTAN" BUILDING NO.6  
PRESOT ROAD; BOMBAY-1

OA NO. 886/89

Sunil Dashrath Chaptekar  
62 Sangam Wadi  
Pune 411003

..Applicant

V/s.

1. The Commander Works  
Engineer; CWE's office;  
Pune 1
2. Garrison Engineer(N)  
Cariappa Marg  
Pune 1
3. Chief Engineer (Pune Zone)  
CE.'Soffice; Pone-1
4. Engineer-in-chief  
Army Headquarters  
DHQ; PO New Delhi-11      ..Respondents

Coram: Hon. Shri Justice S K Dhaon, V.C.  
Hon. Shri M Y Priolkar, Member(A)

APPEARANCE:

Ms. Nagarkatti  
Advocate for  
the applicant

Mr. R K Shetty  
counsel  
for the respondents.

ORAL JUDGMENT:  
(PER: S K Dhaon, Vice Chairman)

DATED: 15-6-92

The applicant, a mazdoor, challenges the  
legality of the order dated 6.8.1988 whereby his  
services have been terminated.

The impugned order of termination in  
paragraph 3, inter alia, reads:- "You have knowingly  
supressed the existance of court case against you  
by concealing these information at the time of filling  
up and signing of your attestation form."

It appears that on the date when the  
applicant submitted his application form duly attested  
he was facing a prosecution under S: 498A<sup>A</sup>read with  
S. 306 of IPC. It is, no doubt, true that in answer

to the querry as to whether he was facing any prosecution, he said 'NO'.

The question still remains as to whether the applicant was entitled to any hearing before the impugned order was passed. Indisputably, the impugned order was passed without holding any inquiry and without giving any opportunity of hearing. A number of authorities have been cited by the learned counsel, Shri R K Shetty, Counsel for the respondents. The judgments state that, in a situation like the present one, principles of natural justice may not be attracted.

Be that as it may, in our opinion the applicant was at least entitled to a show cause notice. In fact, there is an allegation in the impugned order that he knowingly suppressed a material fact. The applicant could have explained the position had he been given an opportunity.

Invoking Rule 5(ii) of the Temporary Service Rules the applicant preferred an application for review. In it, he specifically pointed out that within ten days of the passing of the impugned order the Criminal Court concerned had acquitted him after examining the witnesses. Yet, the reviewing authority disposed of the application in these words:

"Your request for reinstatement in service has been considered at appropriate level and rejected."

There is not even a whisper in the order of the reviewing authority regarding the acquittal of the applicant. This shows that the Reviewing Authority passed the order mechanically and without application of mind.

The application succeeds and is allowed. The impugned order terminating the services of the applicant is quashed. However, keeping in view the peculiar facts and circumstances of the case, we direct that the applicant shall not be given any backwages. However, we direct that the applicant shall be reinstated to his original post with other benefits, including continuity of service. He shall be reinstated within a period of one month from the production of a certified copy of this order before the Confidential Authority

  
( M Y Priolkar )  
Member (A)

  
( S K Dhaon )  
Vice Chairman