

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A. No. 886/89

198

~~Exhibit~~

DATE OF DECISION 15-6-92

S D Chaptekar Petitioner

Ms. Nagarkatti Advocate for the Petitioner(s)

Versus

Union of India & 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


 V.C.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, "GULESTAN" BUILDING NO.6
PRESCOT 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.'s office; Pune-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 suppressed the existence 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: 498^A read with S. 306 of IPC. It is, no doubt, true that in answer

to the query 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 Competent Authority


(M Y Priolkar)
Member (A)


(S K Dhaon)
Vice Chairman