

(8)
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. NO: 770 /89

199

T.A. NO: ----

DATE OF DECISION 8-7-1992

Pundalik Chandrabhan

Petitioner

Mr. K.G. Dhamecha

Advocate for the Petitioners

Versus

PW Inspector, CR and 4 ors.

Respondent

Mr. S.C. Dhawan

Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. Justice S.K. Dhaon, Vice-Chairman

The Hon'ble ~~Mr.~~ Ms. Usha Savara, 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 ?

mbm*

MD

(S.K. DHAON)

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A.770/89

Pundlik Chandrabhan,
Gangman,
C/o. Permanent Way Inspector,
Murtizapur, Tq. Murtizapur,
Dist. Akola.

.. Applicant

vs.

1. Permanent Way Inspector,
Central Railway,
Murtizapur,
Tq. Murtizapur,
Dist. Akola.
2. Asstt. Engineer (West)
Central Railway,
Akola,
Tq. and Dist. Akola.
3. Divisional Railway Manager (West.)
Central Railway,
Bhusaval,
Dist. Jalgaon.
4. General Manager,
Central Railway,
Bombay.
5. Union of India
through
GM Central Railway,
Bombay.

.. Respondents

Coram: Hon'ble Shri Justice S.K. Dhaon
Vice-Chairman.

Hon'ble Ms. Usha Savara, Member (A)

Appearances:

1. Mr. K.G. Dhamecha
Advocate for the
Applicant.
2. Mr. S.C. Dhawan
Advocate for the
Respondents.

ORAL JUDGMENT:
(Per S.K. Dhaon, Vice-Chairman)

Date: 8-7-1992

An order dated 4.5.87 passed by the
Asstt. Engineer (W) terminating the services of the
✓ applicant and was confirmed by the order dtd.
8.2.88 passed by the Appellate Authority is being
impugned in the present application. Counter
affidavit has been filed. We have heard the counsel
for the parties.

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..2/-

2. The order dtd. 4.5.87 is before us in original. It has been passed on a printed proforma. It recites, inter alia, that the punishing authority found the applicant guilty of the articles of charge/imputation of misconduct or misbehaviour viz. he has failed in his duties leading to negligence in protection of tracks and loss to the railways. In our opinion, the order has been passed in a mechanical fashion without any application of mind. No attempt has been made to even refer to the specific charge levelled against the applicant. There was not even a whisper about the evidence levelled by the department against the applicant.

✓ There was also not even a whisper about whether the punishing authority accepted the version of the witnesses ^{who} ~~which~~ has been produced against the applicant.

✓ 3. The appellate order too depicts the same picture. The Appellate Authority has proceeded on the assumption that the applicant has submitted a mercy appeal and therefore without entering into the merits of the case he merely issued a direction that the applicant will be given a fresh appointment.

4. Annexure XIV to the application is a true copy of the memorandum of appeal preferred by the applicant. In the counter affidavit it is not denied that the said Annexure is not a true copy of the memorandum of appeal. We have gone through the memorandum of appeal and we find that the applicant had attacked the order of the punishing authority on merits. We ^{are} ~~have~~, therefore, driven to the conclusion that the appellate authority too disposed of the appeal without any application of mind.

5. In result this application succeeds.
The order of the punishing authority is quashed.
The order of the appellate authority is also
quashed. However, we make it clear that it will be
✓ open ^{to} for the punishing authority to pass a fresh
order on merits and according to law. We are
informed that, in pursuance of the order of the
✓ Appellate Authority, the applicant has ^{been} given a
fresh appointment. Therefore the question of
reinstating the applicant does not arise. However,
the applicant will be entitled to the backwages
✓ from the date of passing ^{of} the order of termination
till the date of his joining on the post on
account of fresh appointment given to him. The
applicant shall also be given all the increments
which may be due to him and his pay shall also be
✓ fixed afresh on the footing that he had been in
continuous and uninterrupted service of the
✓ respondents. The respondents shall carry out the
order within three months from the date of communi-
cation of this order. There will be no order as to
costs.

U. Savara
(USHA SAVARA) 8.7.92
Member(A)

S.K. Dhaon
(S.K. DHAON)
Vice-Chairman