

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. NO: 941/89

199

~~Ex.A.No.~~

DATE OF DECISION 13.2.1992

Katamala Ankaya

Petitioner

Mr. D.V.Gangal

Advocate for the Petitioners

Versus

Union of India & Ors.

Respondent

Mr. V.S.Masurkar

Advocate for the Respondent(s)


CORAM:

The Hon'ble Mr. Justice U.C. Srivastava, V/C

The Hon'ble Mr. M.Y. Priolkar, M(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*


(U.C. Srivastava)
V/C

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

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Original Application No.941/89

Katamala Ankaya ... Applicant

V/s

Union of India & Ors. ... Respondents

CORAM : Hon'ble Vice-Chairman, Shri Justice U.C.Srivastava
Hon'ble Member (A), Shri M.Y.Priolkar

Appearances:

Mr. D.V.Gangal, Advocate
for the applicant and
Mr. V.S .Masurkar, Counsel
for the respondents.

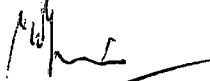
ORAL JUDGMENT:


Dated : 13.2.1992

(Per. U.C.Srivastava, Vice-Chairman)

The applicant was appointed on 12.10.1981 as a Mazdoor/Labourer. According to applicant the requirement was that the person should be literate but he was required to submit 8th standard passing certificate for the post of Labourer and he did produce the same. It appears on scrutiny of the certificate it was found that the certificate submitted by the applicant was false. A charge sheet was issued against the applicant. An Inquiry Officer was appointed and the Inquiry Officer holding him guilty suggested a minor punishment and the disciplinary authority awarded him punishment of withholding of increment. It appears some one and half ~~years~~ ^{review} thereafter a notice was issued to the applicant by the Vice Admiral, Chief of Personnel. The applicant submitted his reply to the same and thereafter the Vice Admiral, Chief of Personnel removed the applicant from service. Feeling aggrieved against the order of removal the applicant approached the Tribunal. On behalf of the applicant it was contended that ^{the officer} Shri S.M.Gadihoke, Vice Admiral, Chief

of Personnel was not competent to issue notice or to pass any punishment order against the applicant as he was not the competent authority and further the review proceedings could have started within a period of six months and not after one and a half year. The applicant has specifically pleaded that Shri S.M.Gadibhoke was not authorised under Rule 29 to issue any such order in as much as he was not the authority mentioned in Rule 29 of the CCS (CCA) Rules, 1965. The respondents have controverted this allegation by stating that under Presidential order the Rule 29 CCS (CCA) powers were conferred upon the Chief of Personnel. In this connection a reference has been made to the order dated 2nd December, 1983 viz. for the purpose of Rule 29(1)(VI) of the CCS (CCA) Rules, 1965 the President specified certain authorities for disposing of all ~~xxx~~ revision petitions made under Rule 29 of the CCS (CCA) Rules by Group 'C' & 'D' civilian employees working in the lower formation of Service Headquarters against the orders of major penalties. But no powers under the said order was conferred on any authority who can exercise suo-moto powers of revision nor has any such order/^{been} produced before us. Obviously the applicant's plea stands proved and this application has got to be allowed on the ground that the action which has been taken against the applicant or the order which has been passed by the authority which was not competent to do so and accordingly this application is allowed and the punishment order dated 5.4.1988 is quashed. It is not necessary for us to make any observation as to whether the respondents can take any action in the matter or not. It is for them to decide whether within the ambit of law they can take fresh action or not against the applicant. No order as to costs.


(M.Y. Priolkar)
Member (A)


(U.C. Srivastava)
Vice-Chairman