

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

✓
OPEN-COURT / PRE DELIVERY JUDGMENT IN OA

RP 2008/02 in OA
/ 1077/96

Hon'ble Vice-Chairman / Member (J) / Member-(A)
may kindly see the above Judgment for
approval / signature.

V.C. / Member-(J) / Member (A) (K/S)

Hon'ble Vice Chairman

Hon'ble Member (J) ✓

Hon'ble Member (A) (K/S)

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH: MUMBAI

REVIEW PETITION NO. 2008/2002
IN
ORIGINAL APPLICATION NO. 1077/1996

THURSDAY, THIS THE 23RD MAY, 2002

CORAM: HON'BLE SHRI S.L. JAIN. .. MEMBER (J)
HON'BLE SMT. SHANTA SHASTRY. .. MEMBER (A)

Kawadu Sopan Jumdé. .. Applicant

Versus

Union of India & 2 others. .. Respondents

ORDER

Hon'ble Smt. Shanta Shastry. Member (A)

This review petition has been filed by the applicant in OA No.1077/96 which was dismissed vide order dated 17th January, 2002. The applicant submits that he received the certified copy of the judgment only on 05.3.2002. Thus, the applicant is within the period of limitation as it has been filed on 11.3.2002.

2. The applicant has taken the ground that the Tribunal ought to have granted adjournment to the counsel for the applicant since he was held up in the High Court and ought not to have decided the case without hearing the counsel for applicant and therefore, the judgment and order dated 17.01.2002 is liable to be recalled and OA deserves to be restored and set for final hearing afresh. Secondly the applicant submits that the Tribunal failed to appreciate that the inquiry proceedings itself was vitiated having been instituted

by an incompetent authority and the said defect of enquiry was incurable under law, therefore no punishment could be inflicted on the applicant. The applicant has further submitted that the Tribunal failed to appreciate that in ~~an~~ identical circumstances in OA No.698/1993 the Tribunal quashed and set aside the order of penalty on the ground that the same was not issued by the competent authority and directed reinstatement of the applicant. A copy of the judgment and order has been attached. According to the applicant the departmental authorities as well as the Tribunal failed to appreciate that it was Shri Ramaswamy who had beaten the applicant and lodged a false report against the applicant and this was proved by the discharge slip and OPD card issued by the Ordnance Factory, Chanda. The applicant is therefore claiming for recalling of the order dated 17.01.2002.

3. We have perused the grounds taken by the applicant. Though the counsel for the applicant was not present at the time of hearing, the matter was decided on merits on the basis of the available records. Merely because the counsel was in High Court, ^{it} cannot be a ground for adjournment. The matter regarding the charge sheet being issued by an incompetent authority has been dealt with in para 7 of the judgment and order dated 17.01.2002. The judgment and order dated 26th September, 2001 in OA No.698/93 was not before the Tribunal at the time of the hearing. The Tribunal has

satisfied itself that the charge sheet was issued by the competent authority in that the decision to issue the charge sheet had been taken at the level of Disciplinary Authority, the actual charge sheet can be signed by a lower authority even, there is no bar to it. The applicant's allegation that the Tribunal failed to appreciate that it was V.L. Ramaswamy ^{who} had beaten the applicant and lodged false report is not correct. This fact has already been taken into consideration while deciding the matter and this pleading had already been taken in the OA also. In view of the discussion and reasons recorded above, in our considered, no review is called for. Accordingly, the RP is rejected.

Shanta S

(SMT. SHANTA SHASTRY)
MEMBER (A)

S.L. Jain

(S.L. JAIN)
MEMBER (J)

Gajan

dt: 23.5.2002
Order/Judgement despatched
to Applicant/Respondent (s)
on 4.6.2002

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