

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**BOMBAY BENCH**

order in RP 82/86

OPEN COURT / PRE DELIVERY JUDGMENT IN OA 482/86

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)~~

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, GULESTAN BUILDING NO. 6  
PRESCOT ROAD, FORT, MUMBAI 400001.

R.F. No. 82/96 in O.A. 482/96.

Dated this 29<sup>th</sup> day of August 1996.

CORAM : 1) Hon'ble Shri B.S. Hegde, Member (J)  
2) Hon'ble Shri P.P. Srivastava, Member (A).

Shri D.R. Joshi ... Applicant  
v/s

The Divisional Engineer ... Respondents  
(External-I), Mulund  
Telephone Exchange,  
Mulund (W), Mumbai-80  
and Others

Tribunal's Orders (By circulation).

Per: Shri B.S. Hegde, Member (J).

The applicant has filed this application seeking review of judgement dated 28-6-1996. We have perused the R.P. and are satisfied that the R.P. can be disposed of by circulation under Rule 17 (iii) of the CAT (Procedure) Rules 1987.

2. The applicant sought review of the judgement on the following grounds, that the Disciplinary Authority cannot remit the case of the petitioner to the Enquiry Officer under Rule 15(1) of the CCS (CCA) Rules which is a patent error on the face of the records and also an apparent error of rule or law. Secondly, a fresh charge sheet cannot be issued on the same charge if the earlier charge is cancelled without giving any reason;

lastly, the Tribunal had acted without jurisdiction when it overruled or ignored its Coordinate Bench decision etc.

3. In the O.A. also, the main ground of argument of the Petitioner was that having cancelled the first charge sheet issued by the Respondents, they are not justified in issuing a charge sheet on the same set of facts. The actual facts are that after considering the preliminary enquiry report of the Enquiry Officer, the competent authority decided that due to technical reasons, the earlier charge sheet was withdrawn with the intention of issuing a fresh charge sheet and the word 'cancellation' cannot be construed as cancellation in the notional sense.

4. In the R.P. the applicant has raised the very same plea raised in the O.A. It is well settled that an R.P. is maintainable where some mistake or error apparent on the face of the record is found and it may be exercised on any analogous ground but it cannot be exercised on the ground that the decision was erroneous on merits. No such ground is made in this R.P. and therefore the R.P. cannot be utilised for re-arguing the case on the same ground. A mere repetition through different counsel of old and overruled arguments is not permissible.

5. In our view, neither any error apparent on the face of the record has been pointed nor any new fact has been brought to our notice calling for a review of the original

*Hv*

judgement. The grounds stated in the Review Application are more germane for an appeal against our judgement and not for review. The Review Petition is, therefore, dismissed by circulation.



(P.P. Srivastava)  
Member (A)



(B.S. Hegde)  
Member (J)

ssp.

24 29/8/96  
Order/Judgement despatched  
to Applicant/Respondent(s)  
on 5/9/96

10/9/96