

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No.: 493/96.

~~Transfer Application No.~~

Date of Decision 13.06.1996.

Shri S. S. Naphade,

Petitioner/s

Shri S. P. Saxena,

Advocate for
the Petitioners

Versus,

Union Of India & Another,

Respondent/s

Shri Anil Kumar,


Advocate for
the Respondents

CORAM :

Hon'ble Shri. B. S. Hegde, Member (J).

~~Hon'ble Shri.~~

- (1) To be referred to the Reporter or not ?
- (2) Whether it needs to be circulated to other Benches of the Tribunal ?


(B. S. HEGDE)
MEMBER (J).

OS*

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH
GULESTA-N BLDG. No. 6, 3RD/4TH FLOOR
PRESCOT ROAD, FORT, BOMBAY-400 001.

ORIGINAL APPLICATION NO.: 493/96.

Dated, this Thursday, the 13th day of June, 1996.

CORAM : Hon'ble Shri B. S. Hegde, Member (J).

Shri S. S. Naphade ... Applicant
(Applicant by Shri S.P. Saxena)

Versus

Union Of India & ~~Another~~ ... Respondents.
(Advocate by Shri Anil Kumar).

: O R D E R :

[PER.: SHRI B. S. HEGDE, MEMBER (J)]

1. When the case was called, the applicant's counsel was absent. Mr. Anil Kumar on behalf of the respondents was present. The Learned Counsel for the applicant, Shri S.P. Saxena could not be present because the train did not arrive in time. Shri Saxena thereafter appeared and prayed that he may be heard. I directed the opposite counsel to be present so that both the parties are heard before disposing of the case. The matter was taken up at 2.30 p.m. when both the counsel were present.
2. Heard the counsel. After hearing both the parties I am satisfied that the appellate order was passed as back as 30.04.1996. Though the order was annexed to the petition, it was not taken into consideration while passing the ex-parte interim order on 28.05.1996. On perusal of the pleadings, it is noted that the applicant vide para 4.8 has clearly stated that the appeal has been disposed of by the Respondent No. 1 vide dated 30.04.1996 which is marked

for


as Exhibit A-4. However, at para 5.1 the applicant has taken the ground that he was compulsory retired by the order of punishment dated 29.06.1995 and he submitted his statutory appeal against the penalty imposed on him. The said appeal is still pending with the Respondent No. 1 and is not disposed of. There is clear contradiction between these two paras. However, Shri Saxena submits, that it is a bonafide mistake and a typing error and his intention was not to suppress the fact. Apparently, the appellate order annexed by the learned counsel for the applicant has not been looked into, though there is contradiction in pleadings, there is no intentional suppression of facts. However, since the Appellate Authority has concurred with the Disciplinary Authority order of compulsory retirement passed as back as 1995, by which the applicant is not going to lose any pensionary benefit, the question of continuing in the quarter after the confirmation of the Disciplinary Authority order does not arise. While passing the ex-parte interim order, the Tribunal stated that the respondents are free to initiate proceedings under P.P. Act short of executing actual eviction order. As stated earlier, the Tribunal has overlooked the Appellate Order dated 30.04.1996 while passing the ex-parte interim order. No useful purpose will be served by directing the respondents to initiate proceedings under P.P. Act but not to execute the order.

3. In the circumstances, the ad-interim order passed on 28.05.1996 stands vacated and once the ad-interim order is vacated, the O.A. also does not survive. Accordingly, the O.A. is disposed of with the following directions to the respondents:-

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The respondents are at liberty to initiate and complete the proceedings under P.P. Act by 30.07.1996 and to recover the licence fee in accordance with the rules till they pass a final order.

The O.A. stands disposed of. No order as to costs.


(B. S. HEGDE)
MEMBER (J).

OS*

Order/Judgement despatched
to Applicant/Respondent (s)
on 18/6/96

19/6/96