

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

Original Application No.765/2000

DATE OF DECISION: 11.6.2001

CORAM: HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

Mr. Antony Ben
General Secretary
Embarkation Headquarters, Bombay
Civilian Employees Union
Sunita Bhosle Chawl
D'Mellow Compound
Vakola Pipe Line,
Datta Mandir Road,
Santacruz East
Mumbai 400 055.

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Applicant

(Applicant by Shri K.S. Kalappura, Advocate)

vs.

1. Union of India, through
the Secretary,
Ministry of Defence
South Block
New Delhi 110 001.
2. The Quartermaster General
Army Headquarters
DHQ PO, New Delhi 110 011
Col. Ranjit Prasad.
3. Col. Commandant
Arohan Mukhyalaya
Embarkation Headquarters
P.B. No.331
Mumbai 400 001.

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Respondents

(Respondents by Shri R.R.Shetty, Advocate)

ORDER (ORAL)

[Per: Govindan S.Tampi, Member (A)]

Shri Antony Ben ^{LAS} come up in this O.A. seeking
directions for quashing the order dated 10.9.1979 passed by the
Disciplinary Authority ^{imposing} on him the punishment of

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withholding of one increment for one year without cumulative effect.

2. Heard Shri K.S. Kalappura along with Ms. Vineeta T. for the Applicant and Shri R.R.Shetty for the Respondents.

3. The Applicant in this case, who is a Tally Clerk in the Embarkation Headquarters, Mumbai and General Secretary of the Embarkation Headquarters Bombay Civilian Employees Union, states that his various activities in furtherance of the interests of the staff and for improvement of the organisation, have been misconstrued and misjudged by the Respondents leading to the issue of this chargesheet. Though in the letters given by him certain unpleasant expressions were made by him they were not meant to hurt the feelings of any of the Officers of the Organisation but only to improve the situation. According to him the Disciplinary Authority and the appellate authority had not realised the matter and accordingly they have proceeded against him and punished him. His Appeal against the Disciplinary Authority's order has been disposed of by the Appellate authority vide order dated 13.4.2000, rejecting the same.

4. According to the learned Counsel for the Applicant, the applicant has been unjustifiably penalised for acts done by him in his capacity as the General Secretary of the Association and not for any alleged irregularity in his official status. Therefore, the procedure adopted by the Respondents were not proper and correct and should be set aside, pleads the Counsel. It is reiterated that all the action have been for the common good of the staff and there was nothing derogatory or improper with regard to any Senior Officer, as felt by the respondents.

5. Rebutting the above pleas, Shri R.R.Shetty learned Counsel for the Respondents points out that the applicant has misused his position as the office bearer of a representative body, though an unrecognised one, by resorting to abusive language, raising baseless allegations and making insinuations against the authorities both in Mumbai and in Delhi. The proceedings were therefore, correctly initiated against him and he cannot take the plea that these were done by him in his capacity as an Office Bearer and that in that capacity he can claim immunity from the proceedings under the CCS (CCA) Rules.

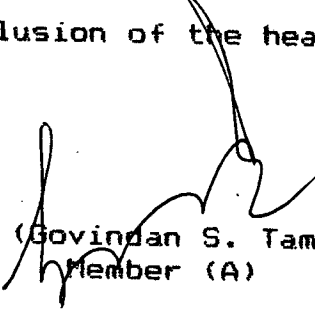
6. I have carefully considered the matter. Perusal of the facts brought on record convincing me that the Applicant has, by his utterances in the letters issued by him to the administration attempted to lower the dignity of the establishment where he was working and cast aspersions on the higher officers of the Organisation. He had made allegations without substantiating any of them and ⁱⁿ the circumstances the Disciplinary Authority had taken the correct decision to initiate disciplinary proceedings culminating in the imposition of withholding one increment for a period of one year without cumulative effect. The same has been endorsed by the appellate authority as well. As correctly pointed out by the respondents, no immunity is granted to any Govt. Servant, from the operation of CCS (CCA) Rules, merely because he was also holding an elective position in a representative body when the act committed by him was actionable under the Rules. In the circumstances of the case, the procedure

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adopted by the Respondents cannot be questioned. The penalty imposed is also not harsh or unconscionably high as to shock judicial conscience justifying any interference.

7. The applicant has not made out any case for the Tribunal's intervention. Application, therefore fails and is accordingly dismissed. No costs.

8. Operative portion of the Order has been duly pronounced in the Court at the conclusion of the hearing.



(Govindan S. Tampi)
Member (A)

sj*