

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH: MUMBAI

ORIGINAL APPLICATION NO. 715 OF 2000

Date: 18.06.2001

Shri S.M. Subani

Applicant(s)

Shri R. Ramamurthy

Advocate for Applicant

Versus

Union of India & Another

Respondents

Shri R.K. Shetty

Advocate for Respondents

CORAM

HON'BLE SHRT JUSTICE ASHOK AGARWAL .. CHAIRMAN

HON'BLE SMT. SHANTA SHAstry .. MEMBER (A)

(1) To be referred to the Reporter or not? |

(2) Whether it needs to be circulated to other Benches of the Tribunal? |

(3) Library ✓

Shanta F

(SMT. SHANTA SHAstry)  
MEMBER (A)

Gaja

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH: :MUMBAI

ORIGINAL APPLICATION NO. 715 OF 2000

MONDAY, THE 18TH DAY OF JUNE 2001

CORAM

HON'BLE SHRI JUSTICE ASHOK AGARWAL. .... CHAIRMAN  
HON'BLE SMT. SHANTA SHAstry. .... MEMBER (A)

S.M. Subani,  
working as Scientific Officer/D  
in the Directorate of Construction Services &  
Estate Management, Department  
of Atomic Energy, 3rd Floor,  
Vikram Sarabhai Bhavan,  
Anushakti Nagar, Trombay  
Mumbai 400 094 and residing at  
Flat No. C/2/2-2/4, Sector 2,  
Opp. Big Splash, Vashi,  
Navi Mumbai 400 701. .... Applicant

By Advocate Shri R. Ramamurthy

Versus .

1. Union of India,  
through the Secretary,  
Department of Atomic Energy,  
Anushakti Bhavan, CSM Marg,  
Mumbai-400 001.
2. The Director,  
Directorate of Construction  
Services and Estate Management,  
Department of Atomic Energy,  
Vikram Sarabhai Bhavan,  
Anushakti Nagar, Trombay,  
Mumbai 400 094. .... Respondents

By Advocate Shri R.K. Shetty.

O R D E R (ORAL)

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

The applicant was chargesheeted for his alleged  
involvement in carrying of private business and entering

.... 2.

into agreement for constructions of residential flats. After denial of the charges by the applicant, an enquiry was ordered. On conclusion of the proceedings, the Enquiry Officer submitted his report on 17.12.1997 holding the charges as not proved. Thereafter, the Disciplinary Authority, however, did not agree after perusal of the enquiry report and the relevant record and made certain observations, directing the enquiry officer to take into consideration some additional evidence by way of an expert opinion in the matter. Accordingly, a further enquiry was conducted. The enquiry was completed ex parte. However, the findings have not yet been submitted to the disciplinary authority.

2. According to the learned counsel for the applicant, the Disciplinary Authority has no powers to order an enquiry on the basis of ~~an~~ additional evidence that has come to the light after the original enquiry is completed. Further, the orders have been issued by the Secretary of the Department, whereas it should have been issued either by the President or by the Competent Authority, who has been delegated the powers. The order is against the rule and therefore, enquiry should be quashed and set aside.

3. In our view there is nothing wrong in the

Disciplinary Authority proceeding on his own and remanding the case to the enquiry officer with some additional evidence which comes to his light. We however, feel that the applicant should have been given an opportunity to rebut the same. Since the present enquiry was completed ex parte, we feel that though the applicant had not participated earlier, he should and will be given an opportunity to rebut the same, keeping in view the principles of natural justice. We, therefore, direct the respondents to give an opportunity to the applicant to appear before the enquiry officer on 6th July, 2001 to put forth his defence in the matter and thereafter the enquiry officer shall give his finding, whereupon the Disciplinary Authority shall pass suitable speaking orders after giving a copy of the enquiry report and after following the proper procedure. The OA is disposed of accordingly. All other contentions raised in this OA will remain open.

*Shanta Shastray*  
(SMT. SHANTA SHAstry)  
MEMBER (A)

*Ashok Agarwal*  
(ASHOK AGARWAL)  
CHAIRMAN

Gaja