

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO. : 644/2000

Date of Decision : 8.6.2001

C.K.Bansode Applicant

Shri R.D.Deharia Advocate for the
Applicant.

VERSUS

Union of India & Ors. Respondents

Shri S.C.Dhawan Advocate for the
Respondents

CORAM :

The Hon'ble Shri S.L.Jain, Member (J)

The Hon'ble Shri Govindan S. Tampi, Member (A)

- (i) To be referred to the reporter or not ? *yes*
- (ii) Whether it needs to be circulated to other *no*
Benches of the Tribunal ?
- (iii) Library *yes*

S.L.Jain
(S.L.JAIN)
MEMBER (J)

mrj.

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.644/2000

Friday this the 8th day of June,2001.

CORAM : Hon'ble Shri S.L.Jain, Member (J)

Hon'ble Shri Govindan S.Tampi, Member (A)

Chandrasen Kondiba Bansode,
Assistant Chief Ticket Inspector,
Central Railway,
Solapur.

...Applicant

By Advocate Shri R.D.Deharia

V/S.

1. Union of India through
The Secretary,
Railway Board,
Ministry of Railways,
Rail Bhavan, New Delhi.
2. The General Manager,
Central Railway,
C.S.T., Mumbai.
3. The Chief Personnel Officer,
Head Quarter's Office,
Central Railway,
C.S.T., Mumbai.
4. The Divisional Railway Manager,
Divisional Office,
Central Railway,
Solapur (M.S.).
5. The Divisional Commercial Manager,
Divisional Office,
Central Railway,
Solapur.

...Respondents

By Advocate Shri S.C.Dhawan

..2/-

Signature

O R D E R (ORAL)

{Per : Shri S.L.Jain, Member (J)}

This is an application under Section 19 of the Administrative Tribunals Act, 1985 seeking a writ of mandamus or any other appropriate writ/direction or order or decree declaring that the memorandum of Charge No.SUR/C/D&A/V/CKB/ACTI/2/2000 dated 6.6.2000 served on the applicant being defective and violative of the respective Rules be cancelled and is of no effect on the applicant.

2. The brief facts of the case is that the applicant has been served with the chargesheet No.SUR/C/D&A/V/CKB/ACTI/2/2000 dated 6.6.2000. The applicant has requested for supply of the documents vide letter dated 20.6.2000, 1.7.2000 & 26.7.2000. The respondents have passed the order on 17.8.2000 (Annexure-'A-6') which is as under :-

"The copies of relied upon documents have already been made available to the charge employee Shri C.K.Bansode, ACTI/SUR. The copies of statements of witnesses listed in Annex.IV of the memorandum form a part of CBI investigation and cannot be quoted or referred to. Neither are the listed as relied upon documents."

3. We have heard the learned counsels for the applicant as well as for the respondents.

P. J. Jain

4. The learned counsel for the applicant relied on 2000 (2) ATJ 128 Mohan Prasad Singh vs. Union of India & Ors. which has followed the Apex Court decision in the case of Kashinath Dikshita vs. Union of India & Ors. ATR 1986 (2) 186 wherein it is observed as under :-

"When a Government servant is facing a disciplinary proceeding, he is entitled to be afforded a reasonable opportunity to meet the charges against him in an effective manner. And no one facing a departmental enquiry can effectively meet the charges unless the copies of the relevant statements and documents to be used against him are made available to him. In the absence of such copies, how can the concerned employee prepare his defence, cross-examine the witnesses, and point out the inconsistencies with a view to show that the allegations are incredible? It is difficult to comprehend why the disciplinary authority assumed an intransigent posture and refused to furnish the copies notwithstanding the specific request made by the appellant in this behalf...No doubt the disciplinary authority gave an opportunity to the appellant to inspect the document and take notes. But even in this connection the reasonable request of the appellant to have the relevant portions of the documents extracted with the help of his stenographer was refused. He was told to make such notes himself as he could."

Similarly in another decision relied upon by Shri Sharma in the case of State of U.P. vs. Shatrughan Lal & Anr. JT 1998 (6) SC 55 their Lordships observed that "...Before a person is, therefore, called upon to submit his reply to the chargesheet, he must, on a request made by him in that behalf, be supplied the copies of the statements of witnesses recorded during the preliminary enquiry particularly if those witnesses are proposed to be examined at the departmental trial."

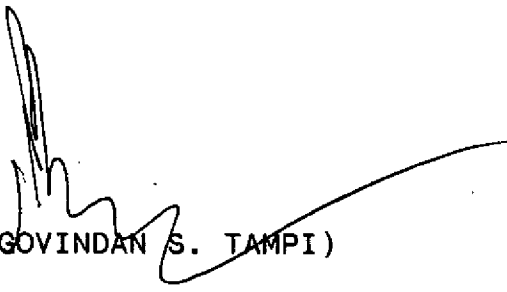
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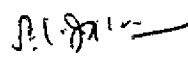
..4/-

5. It is not necessary to mention that it is bounded duty of the disciplinary authority to supply the documents to the applicant in a disciplinary proceedings not only which is relied by the disciplinary authority along with the chargesheet but also the documents which are relevant for decision for the disciplinary proceedings.

6. The learned counsel for the respondents submitted that the CBI investigation is still not over. Hence, if the documents are being supplied, it would affect the investigation. In the circumstances, we are hereby of the opinion that till the documents asked for by the applicant, which are relevant to the issue^{are supplied, ✓} the disciplinary authority should not proceed with the chargesheet.

7. Copies of the statement deserves to be supplied not only the inspection is to be permitted. OA. stands disposed of. No order as to costs.


(GOVINDAN S. TAMPI)
MEMBER (A)


(S.L. JAIN)
MEMBER (J)

mrj.

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Contempt Petition No.31/2002
in
Original Application No.644/2000

Dated this Thursday the 11th Day of April, 2002.

Hon'ble Shri Justice Birendra Dikshit, Vice Chairman.
Hon'ble Smt.Shanta Shastry, Member (Administrative)

Shri C.K. Bansode,
ACTI, C.Rly., Solapur,
R/o. Rly. Quarter No.RB II/12/2,
Modi, Near D.R.M. Office,
Solapur (M.S.) Pin-413 001.

.. Petitioner

(By Advocate Shri R.D. Deharia)

Versus

1. Shri Omprakash,
Addl. Divisional Railway Manager,
Divisional Office, C.Rly.,
Solapur Pin - 413 001.

2. Shri K.N. Saxena,
Divisional Commercial Manager,
Divisional Office, C. Rly.,
Solapur Pin - 413001.

.. Contemnors.

Order on Contempt Petition (Oral)
{ Per : Smt. Shanta Shastry, Member (A) }

This Contempt Petition is filed by the applicant alleging that the respondents have not complied with the orders/judgment dated 8.6.2001 in O.A.644/2000. The order passed by this Tribunal was that "In the circumstances, we are hereby of the opinion that till the documents asked for by the applicant, which are relevant to the issue are supplied, the disciplinary authority should not proceed with the chargesheet". The applicant submits that he has given a representations on 20.6.2001,

...2...

21.8.2001 and 25.21.2002 but so far he has not been
supplied ^{the documents} with. He also states that inquiry is not
proceeded further.

2. In the circumstances, in our considered view
there is no cotempt, accordingly the Contempt Petition is
dismissed.

Shanta J
(Smt. Shanta Shastri)
Member (A)

B. Dikshit
(Birendra Dikshit)
Vice Chairman.

H.

dt. 11.4.2002.
order/Judgement despatched
to Applicant/Respondent (s)
~~on 24.4.2002.~~

PR
29/4