

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO: 761/2001

WEDNESDAY the 18th day of DECEMBER 2002

CORAM: Hon'ble Shri B.N. Bahadur - Member (A)
Hon'ble Shri S.L. Jain - Member (J)

R.A. Khan
Residing at
Khadka Road,
Near Bori Kabrastan
Bhusawal.

...Applicant

By Advocate Shri G.S. Walia

V/s

1. Union of India through
General Manager,
Central Railway
Headquarters Office
Mumbai CST, Mumbai.
2. Controller of Stores
Central Railway,
Mumbai CST, Mumbai.
3. Dy. Controller of Stores (ACL)
CRE, Central Railway,
Bhusawal.

...Respondents.

By Advocate Shri V.S. Masurkar.

ORDER (ORAL)

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

This is an application under Section 19 of the Administrative Tribunals Act 1985 to quash and set aside the orders dated 25.8.2001 and 26.9.2000 passed by the Appellate Authority and Disciplinary Authority respectively with consequential benefits and for direction to the respondents to refund the recovered amount of Rs. 5,077/- with 18% interest till actual payment is made.

ASG

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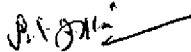
2. The learned counsel for the applicant has drawn our attention to the charge-sheet alongwith Annexure I (OA page 15). We have gone through it and find that Article I, Article II and Article III are not filled up properly. It is true that at the initial stage of the enquiry the applicant was cross examined by the Enquiry Officer, who in reply to question No.7 stated that I have understood the charges levelled against me.


3. Apart from the above we find that the applicant was cross examined without there being any examination of the witnesses from the departmental side in respect of the charge sheet. The order of the Disciplinary Authority as well as Appellate Authority is based only on cross examination of the applicant.

4. The procedure adopted by the Enquiry Officer is not known to law.

5. The learned counsel for the applicant also argued that the charge relates to year 1994 and as such no fresh enquiry be ordered. We leave this matter for the respondents to decide and take appropriate decision thereon.

6. In the result OA is allowed, order dated 25.8.2001 and 26.9.2000 are quashed and set aside. The Disciplinary Authority shall consider the question referred in earlier para and take a decision whether the enquiry has to be proceeded with or not. In consequence of quashing and setting aside the orders referred above the amount of 5077/- is ordered to be refunded to the applicant with interest with effect from the date the amount was recovered ^{till paid} at the rate of 12% p.a. within six weeks. No order as to costs.


(S.L.Jain)
Member(J)


(B.N.Bahadur),
Member(A)