

**CENTRAL ADMINISTRATIVE TRIBUNAL**

**BOMBAY BENCH**

R.P. 87/2004  
15

OPEN COURT / PRE DELIVERY JUDGMENT IN OA 879/2004

Hon'ble Vice Chairman / Member (J) / Member (A)

may kindly see the above Judgment for

approval / signature.

(S. C. Dasmalch)

V.C. / Member (J) / Member (A) (K.S.)

Hon'ble Vice Chairman

Hon'ble Member (J)

Hon'ble Member (A) (K.S.) (A.K.B.)

18/11

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, AT MUMBAI.

R.P.No.87/2004

in

O.A.No.879/2001

CORAM: HON'BLE SHRI ANAND KUMAR BHATT, MEMBER (A)  
HON'BLE SHRI S.G. DESHMUKH, MEMBER (J)

Shri Chandrakant Shankarrao Marne ... Petitioner  
(By Shri D.V.Gangal, Advocate)

vs

1. Union of India and 2 Others. ... Respondents

ORDER BY CIRCULATION IN R.P.NO.87/2004 DATED 19 /11/2004.

Per: S.G.Deshmukh, Member (J):

The present R.P. has been filed by the applicant in reviewing the order dated 14th September, 2004 passed by the Tribunal in O.A.No. 879/2001.

2. O.A.No.879/2001 was filed for quashing and setting aside the removal order dated 11.10.2000 passed by the disciplinary authority and the appellate order dated 01.03.2002 confirming the order of the disciplinary authority and directing the respondents to reinstate the applicant with effect from 11.10.2000 with full pay and allowances.

3. The O.A. is disposed of by setting aside the orders dated 11.10.2000 and 01.3.2002 and the matter is remitted to the disciplinary authority with a direction to give adequate opportunity to the applicant to nominate a Defence Assistant as provided under the rules and to take necessary action to secure his presence during the inquiry. The applicant shall be given a reasonable opportunity to cross examine the witnesses and to examine the defence witnesses. The applicant was to co-operate with the Inquiry Officer in the conduct of the enquiry. The

applicant shall be under deemed suspension from the date of removal till the culmination of the disciplinary proceedings as observed in the O.A. The disciplinary proceedings is to be completed within a period of 4 months from the date of receipt of a copy of the order.

4. The present R.P. is filed for reviewing the order on the ground that the rulings cited in the order by the Tribunal are not applicable as the applicant had raised the grounds. It is also the contention of the applicant that the ratio in the case of State of Punjab vs. Dr. Harbhajan Singh Greasy, JT 1996 (5) S.C.403 is not applicable to the present case and hence the review.

5. We have considered the contentions raised in the R.P. before us.

6. In Ajit Kumar Rati vs. State of Orissa and Others 1999 (9) Supreme 321, the Apex Court observed that "the power available to Tribunal is same as available to a Court under Sec.114 read with order 47 of CPC. Under this section, it is not permissible for an erroneous decision to be reheard and corrected. An error which is not self evident and has to be detected by reasoning, can hardly be said as an error apparent on the face of the record justifying the Court to exercise the power of its review. The erroneous view of the evidence or of law cannot be the ground for review though it may be the ground for an appeal."

7. It is observed in the judgement "that it is also apparent that the present applicant has not raised this point before the disciplinary authority or the appellate authority that these

three witnesses were not examined on 19.5.2000 if the witnesses would not have been examined on the date of 19.5.2000 the applicant would have raised this point while making representations against the report of the Enquiry Officer and also in the appeal preferred against the order of the disciplinary authority. "There appears no mistake or error apparent on the face of the record. The power of review can be exercised only for correction of patent error of law and fact which states in the face without any elaborate argument.

8. It is also observed in the judgement "that Shri Baila is not an Inquiry Officer in the applicant's case against whom the application for taking action for perjury under sec. 191, 192 and 193 of IPC was filed." It is observed "that he was not directly concerned with the proceedings in question. The submissions whatever made by him in the sur rejoinder are based on the record which are made available to him. He had no personal knowledge on the applicant." Thus, there appears no apparent error on the face of the record.

9. In view of what is stated above, the R.P. deserves to be rejected and we order accordingly. No order as to costs.

Minister  
(S.G. Deshmukh)  
Member (J)

sj\*

Order Issued  
on 11/11/2004  
1/C

Anand Kumar Bhatt  
(Anand Kumar Bhatt)  
Member (A)