

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A. No. 76/90  
T.A. No. ---

198

DATE OF DECISION 17-3-94

Ganeshram Harichandranram Petitioner

Mr.L.M.Nerlekar Advocate for the Petitioner(s)

Versus

DEE(TD)CR Bombay & One another Respondent

Mr.S.C.Dhavan Advocate for the Respondent(s)

## CORAM

The Hon'ble Mr. Justice M.S.Deshpande, Vice-Chairman

The Hon'ble Mr. R.Rangarajan, Member(A)

1. ~~Whether Reporters of local papers may be allowed to see the Judgement ?~~
2. To be referred to the Reporter or not ? *no*
3. ~~Whether their Lordships wish to see the fair copy of the Judgement ?~~
4. Whether in needs to be circulated to other Benches of the Tribunal ? *no*

*[Signature]*  
(M.S.Deshpande)  
V.C.

M

(24)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

O.A.76/90

Ganeshram Harichandranram .. Applicant

-versus-

1. Divisional Electrical  
Engineer(TD)  
Central Railway,  
Kurla, Bombay.

2. Divisional Railway  
Manager,  
Central Railway,  
Bombay.

.. Respondents

Coram: Hon'ble Shri Justice M.S.Deshpande  
Vice-Chairman.

Hon'ble Shri R.Rangarajan, Member(A)

Appearances:

1. Mr.L.M.Nerlekar  
Advocate for the  
Applicant.

2. Mr.S.C.Dhavan  
Counsel for the  
Respondents.

ORAL JUDGMENT:  
(Per M.S.Deshpande, V.C.)

Date: 17-3-94

By this application the applicant challenges the order passed by the departmental authorities holding the charge of committing fraud proved and imposing the punishment of dismissal on the applicant. The applicant was employed as OHE Khalasi with the respondent. A chargesheet was served on him for producing a forged casual labour card No.151416 in order to get himself appointed in railway service. The charge was held to be proved by the Inquiry Officer. The Disciplinary Authority agreed with the findings of the Inquiry Officer and imposed the penalty of dismissal. A memo of appeal raising several points was filed before the appellate authority but the appellate authority by cryptic order dt. 12-1-90

(2)

held that the appeal was unsatisfactory and the penalty was confirmed. This order was challenged by filing the present application. This Tribunal by its order and judgment dt. 3.9.91 relying on Union of India vs. Mohd. Ramzan Khan's case quashed the order imposing the penalty with liberty to the respondents to proceed afresh against the applicant. This order was set aside by the Supreme Court holding that Mohd. Ramzan Khan's case can apply only prospectively and remitted the case to Tribunal for deciding the other points.

2. The first point which requires consideration is whether the appellate order can be supported. <sup>As</sup> we have pointed out several contentions were raised in the memo of appeal dt. 23-10-89 some of the points raised were that certain documents were not made available, that the procedure was not properly followed and that the evidence of the witnesses was not satisfactory. None of these or the other points seem to have been considered by the appellate authority inspite of the provisions of Rule 22 of the Railway Servants (Discipline & Appeal) Rules, 1968 which lay down what considerations have to go in while deciding the appeal. It was expected that in view of several contentions raised the appellate authority would consider them seriatim and pass speaking order. It may be remembered that the appellate authority can go into the question of fact raised by the delinquent officer and that the jurisdiction of this Tribunal under Article 226 would be limited. It does not appear that the applicant was also given a personal hearing to which he would be entitled in view of the decision of the Supreme Court

(26)


in Ram Chander's case(AIR 1986 SC 1173).

3. We are therefore constrained to allow this application and set aside the appellate order, and direct the appellate authority to give a personal hearing to the applicant and decide the appeal in accordance to the provisions of Rule 22 of the Railway Servants (Discipline & Appeal) Rules, 1968 within two months from the date of receipt of a copy of this order.

4. The application is disposed of with above direction. No order as to costs.



(R. Rangarajan)  
Member(A)



(M.S. Deshpande)  
Vice-Chairman

M