

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. Stamp No. 217/90 198
 T.A. No.

OA 234/90

DATE OF DECISION 10-4-1990K.L.Sharma PetitionerMr.G.S.Walia Advocate for the Petitioner(s)

Versus

Union of India and ors. Respondent- Advocate for the Respondent(s)**CORAM**

The Hon'ble Mr. M.Y.Priolkar, Member(A)

The Hon'ble Mr. T.S.Oberoi, Member(J)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

Stamp No.217/90 OA 234/90

K.L.Sharma,
C/o.G.S.Walia,
Advocate,
89/18,Western Railway
Employees' Colony,
Matunga Road,
Bombay - 400 019.

.. Applicant

vs.

1. Union of India
through
The Under Secretary,
Ministry of Defence,
New Delhi.
2. Chief Engineer,
Bombay Zone,
26,Assaye Bldg.,
Colaba,
Bombay - 400 005.
3. Commander Works Engineer,
(Naval Works),
Bombay - 400 005.
4. Station Commander,
Kanpur Cantonment,
Kanpur.

.. Respondents

Coram: Hon'ble Shri M.Y.Priolkar, Member(A)
Hon'ble Shri T.S.Oberoi, Member(J)

Appearance:

Mr.G.S.Walia
Advocate for the
applicant.

ORAL JUDGMENT:

(Per M.Y.Priolkar, Member(A))

Date: 10-4-1990

Heard Mr.Walia for the applicant. The applicant is an officer of the rank of Executive Engineer, presently working as Deputy Commander, Works Engineers(Naval Works), Bombay. The grievance of the applicant is that he has been asked by Signal dated 10-3-1990 from Station Head Quarter, Kanpur to attend a Staff Court of Enquiry convened by Station Head Quarters, Kanpur. The applicant wrote on 14-3-1990 to his immediate superior, namely the Superintending Engineer working as Commander, Works Engineers, asking for clarifications whether the Station Head Quarters, Kanpur, had the jurisdiction or administrative control to summon the applicant for the purposes of this

..2/-

Staff Court of Enquiry convened by them. His contention is that he had earlier worked as Garrison Engineer, E/M, Airforce Station, Chakeri under Air Force Station, Kanpur and not under Station Head Quarters, Kanpur and, therefore, the proposed enquiry which is presumably arising out of a complaint against the Garrison Engineer, Kanpur will not be relevant as far as the applicant is concerned.

2. A letter was addressed on 31-3-1990 by one Administrative Officer (II), for Commander, Works Engineer, to the Chief Engineer, Bombay Zone, who is admittedly the head of the department for the applicant, stating that the applicant has written that he would not attend the Staff Court of Enquiry unless the clarifications asked by him were furnished. As this communication to the Chief Engineer has apparently not elicited any response, the applicant has approached this Tribunal on 9th April, 1990 praying for a declaration that the Station Head Quarters, Kanpur has no legal authority to conduct any Staff Court of Enquiry against the applicant, or to ask the applicant to attend any Staff Court of Enquiry conducted by it.

3. We are unable to appreciate the grievance of the applicant. Evidently, the Staff Court of Enquiry is only a preliminary enquiry and only if a prima facie case is made out against any official in this Staff Court of Enquiry, then alone regular disciplinary proceedings may be initiated and chargesheet issued. This stage has not come so far. In fact, as is evident from the letter dated 15-3-1990 at page 16 of the paperbook, the applicant is one of the witnesses at the proposed Staff Court of Enquiry. In any case, unless the head of his x department, who is the Chief Engineer, directs the applicant not to attend this enquiry, we see no reason

(14)

why we should interfere in the proposed proceedings of the Staff Court of Enquiry. We do not also see any hardship involved in the applicant proceeding to Kanpur for a few days to participate in this Court of Enquiry for which he is being paid full TA/DA, in accordance with his entitlements. It will be unreasonable on the part of a senior officer, particularly in Defence Services, of the rank of Executive Engineer like the applicant, when he is directed by his head of department to proceed on tour, to refuse to move and thus delay the performance of his official duties, on the ground that full particulars about the jurisdiction and authority of the Court of Enquiry and the complaint received, etc. should be furnished to him in advance.

4. We do not, therefore, see any merit in this application which is summarily rejected at the admission stage itself with no order as to costs.

T.S. Oberoi

(T.S. OBEROI)
Member(J)

M.Y. Priolkar

(M.Y. PRIOLKAR)
Member(A)

Judgment dtd. 10.4.90
Send to parties on
29.5.90.

stakod.

Judgement dtd. 10.4.90
Served on R.N. 1/2 on d
5-6-90

*NP
24/6/90*