

(6)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 580/90

Transfer Application No: -----

DATE OF DECISION 22-12-1992

Sunil Kishorilal Bhaurasi and 5 ors.

Petitioners

Mr. K.G. Dhamecha

Advocate for the Petitioners

Versus

Union of India and two ors.

Respondent

Mr. J.G. Sawant

Advocate for the Respondent(s)

CORAM:

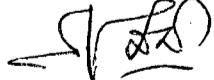
The Hon'ble Shri M.Y. Priolkar, Member(A)

The Hon'ble Shri V.D. Deshmukh, 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 ?

NO

MD


(V.D. DESHMUKH)

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(2)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A.580/90

1. Sunil Kishorilal Bhaurasi
2. Chandabai Kishorilal Bahurasi
3. Anil Kishorilal Bahurasi
4. Kalpana Kishorilal Bahurasi
5. Bablu Kishorilal Bahurasi
6. Sandeep Kishorilal Bahurasi .. Applicants
All r/o.Ashoknagar,
Near School No.6,
Akotfile, Akola,
Tq. & Distt.Akola.

-versus-

1. Union of India
through
General Manager,
Central Railway,
Bombay V.T.
2. Senior Divisional Electrical
Engineer,
(TRS),Central Railway,
Bhusaval, Dist.Jalgaon.
3. Assistant Electrical Engineer,
(Optg)Central Railway,
Bhusaval,
Dist.Jalgaon. .. Respondents

Coram: Hon'ble Shri M.Y.Priolkar, Member(A)

Hon'ble Shri V.D.Deshmukh, Member (J)

Appearances:

1. Mr.K.G.Dhamecha
Advocate for the
Applicant.
2. Mr.J.G.Sawant
Advocate for the
Respondents.

ORAL JUDGMENT: Date: 22-12-1992
(Per V.D.Deshmukh, Member (J))

The present application is filed
by the legal representatives of late
Mr.Kishorilal Bhaurasi who was working as
Asstt.Driver/^{Trainee Foreman} with the Central Railway. As a result
of the departmental enquiry held against him

the said Kishorilal Bhaurasi was removed from service by ~~an~~ order dt. 30-12-1985 passed by the Asstt. Electrical Engineer, Central Railway, Bhusaval. This order was confirmed by the Appellate Authority by its order dt. 4-2-1986. The Appellate Authority who confirmed the order was the Divisional Electrical Engineer.

2. Late Kishorilal Bahurasi challenged the above mentioned two orders by original application No.141/86 which was decided by this Tribunal by order dt. 12-12-1986. The Tribunal found that it was not necessary to enter into the merits of the matter as *prima-facie* it was found by the Tribunal that proper opportunity was not given to the appellant and the appellant was also not given personal hearing. By the above said order the Tribunal remanded the matter directing that the Appellate Authority shall dispose of the appeal according to ~~the~~ law and bearing in mind the observations made in the judgment.

3. After the remand order was passed late Kishorilal was to appear before the Appellate Authority on 4-4-87. According to the present applicants late Kishorilal attended the office of the Appellate Authority but the Appellate Authority was not there. He waited for some time and thereafter left. However, subsequently he was communicated with the order passed by the appellate authority on 4-4-1987. The very first para of the order passed by the Appellate Authority shows that the late Kishorilal did attend on 4-4-87. It mentions that although late Kishorilal came to the office of the

Appellate Authority on 4-4-87 he had failed to see the Appellate Authority. It further states that the Appellate Authority remained in the office for more than two hours and the staff were sent to locate late Kishorilal, ^{q/f} However, nobody could locate late Kishorilal and the appellate authority was inclined to pass the order thereafter. Later, late Kishorilal wrote a letter on 24-6-1987 ~~regarding~~ ^{recording} ~~on~~ that he had attended the office of the Appellate Authority on 4-4-87.

4. The learned counsel for the applicant contended that in the circumstances no adequate opportunity was given to late Kishorilal. In our view also as 4-4-87 was the first date on which date Kishorilal was expected to attend the office of the Appellate Authority, normal considerations require ^d that one more chance should have been given to late Kishorilal. It is noteworthy that this Tribunal had remanded the matter for hearing of the appeal afresh by the Appellate Authority especially on the ground that personal hearing was not given to ~~the~~ late Kishorilal. The predecessor ^{is by} of the present applicants/ no more living but the opportunity can be given to the present applicants because if such opportunity is not given to them heavy loss would be caused to them. The present applicants themselves would not be able to argue the appeal and therefore we are also inclined to direct that they should be permitted to be represented by a counsel.

5. In the result we set aside the order dt. 4-4-87 passed by the Sr. Divisional Electrical Engineer, the Appellate Authority and direct

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that the said authority shall hear the appeal again after giving notice to the applicants.

The appellate authority shall permit the applicants to be represented by their counsel and the appellate authority shall thereafter decide the appeal in accordance with law and as per the directions given in the present order. The appellate authority should dispose of the appeal within four months from the date of receipt of this order.

6. No order as to costs.

V.D.Deshmukh

(V.D.DESHMUKH)
Member(J)

M.Y.Priolkar

(M.Y.PRIOLKAR)
Member(A)

MD