

(2)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 869/90

Transfer Application No:

DATE OF DECISION: 14.7.1994

Shri S.C.Patole

Petitioner

None

Advocate for the Petitioners

Versus

S. Commodore, Chief Staff Officer (P&A)
Western Naval Command-Bombay & D.P.S. Respondent

Shri V.S.Masurkar

Advocate for the Respondent(s)

CORAM :

The Hon'ble Shri B.S.Hegde, Member (J)

The Hon'ble Shri M.R.Kolhatkar, Member (A)

1. To be referred to the Reporter or not ? *not*
2. Whether it needs to be circulated to other Benches of the Tribunal ?

M.R.Kolhatkar
(M.R.KOLHATKAR)
MEMBER (A)

B.S.Hegde
(B.S. HEGDE)
MEMBER (J)

Ref 10
AB
5/8

(8)
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY.

ORIGINAL APPLICATION NO.869/90.

Shri Shashikant Chintaman Patole

... Applicant.

V/s.

Commodore, Chief Staff Officer (P&A),
Headquarters, Western Naval Command,
Bombay & Ors.

... Respondents.

Coram: Hon'ble Member (J), Shri B.S. Hegde,
Hon'ble Member (A), Shri M.R. Kolhatkar.

Appearance

None for the Applicant.

Shri V.S. Masurkar, Advocate
for the Respondents.

ORAL JUDGEMENT:

Dated: 14-7-1994.

(PER: Hon'ble M(J), Shri B.S. Hegde).

In this O.A. the applicant has prayed for quashing the order passed by the Commodore, Chief Staff Officer (P&A) dated 13-5-1986 and reinstatement of the applicant with full back wages etc. The applicant was appointed as Un-Skilled Labourer in 1979 and he had produced a certificate stating that he had passed 8th Std. from New English School, Nania, ^{was} Dist. Ratnagiri. He alleged to have passed 8th Std. in July, 1976 but on verification with the School authorities it was made out that the School was closed from June 1976 and on verification of his certificates it was found that the applicant had produced a false certificate. In this connection, the respondents furnished a letter of the applicant vide letter dated 20-12-1984 addressed to the Controller Technical Services, Naval Store Depot, Bombay, wherein it was stated that :-

"For a long period I was in search of a job. Even I was compelled to stop my education while I was studying in VIIth standard due to complete pauperisation of my family. I do really realise my wrong commitment but for daily bread, as no other source I could acquire."

Accordingly, he gave a wrong information. On verification of the certificates filed by the applicant, the respondents

initiated an enquiry against him. The disciplinary authority by its order dated 13-5-1986 removed the applicant from service against which he preferred an appeal, which was also rejected in June 1988, against which he preferred a review application which also got dismissed. The respondents in their reply have clearly set out reasons for initiating disciplinary enquiry and the conclusions arrived at by them which are reiterated in Para 5 of the written statement.

2. In the context of the above, the learned counsel for the respondents brought to our notice the well-settled principles laid down by the Supreme Court in U.O.I. V/s Perma Nanda (1989) where the Supreme Court held as below : "the jurisdiction of the Tribunal to interfere with the disciplinary matters or punishment cannot be equated with an appellate jurisdiction. The Tribunal cannot interfere with the finding of the enquiry officer or Competent Authority where they are not arbitrary or utterly perverse. It is appropriate to remember that the power to impose penalty on a delinquent Officer is conferred on the Competent Authority whom by an Act of legislation or made under the proviso to Article 309 of the constitution. If there has been an enquiry consistent with the Rules and in accordance with the Principles of Rules of natural justice is a matter exclusively within the jurisdiction of the Competent Authority. The adequacy of the penalty unless it is malafide is certainly not a matter for the Tribunal to concern with."

3. The Respondents have also raised the plea of limitation and stated that the cause of action arose in 1988; however, applicant filed this petition in December, 1990; after a lapse of 2 years. There is considerable force in that contention, however, we are not dismissing O.A. on the ground of limitation and hold that on merits the claimant does not have any case.

4. The applicant has assailed the penalty on various grounds. It is a matter of record that the applicant has admitted his guilt. Therefore, the question of interfering with the findings of the Disciplinary Authority does not arise. It is only for the competent authority to decide.

In the light of the above, we accept the contention of the learned counsel for the respondents and we see no merit in the application. Accordingly, the O.A. is dismissed, but no order as to costs.

M.R. Kolhatkar

(M.R. KOLHATKAR)

MEMBER (A).

B.S. Hegde

(B.S. HEGDE)

MEMBER (J).