

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A. No. 114/91
T.A. No. ---

198

1-3-1994

DATE OF DECISION 1-3-1994

Ankush Ramchandra Shinde

Petitioner

Mr. G. S. Walia

Advocate for the Petitioner(s)

Versus

Union of India & 2 ors.

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 it needs to be circulated to other Benches of the Tribunal ? *NO*

(M.S.DESHPANDE)

VC

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A.114/91

Ankush Ramchandra Shinde .. Applicant

-versus-

Union of India & 2 ors. .. Respondents

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

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

Appearances:

1. Mr.G.S.Walia
Advocate for the
Applicant.

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

ORAL JUDGMENT: Date: 1-3-1994
(Per M.S.Deshpande, V.C.)

By this application the applicant challenges the order of removal from service passed against him as a sequel to departmental enquiry relating to the use of bogus card for protecting his employment as a casual labour. A chargesheet was given to the applicant on 29-9-1988 under Rule 9 of the Railway Discipline and Appeal Rules,1968 and the Inquiry Officer after conducting the enquiry found him guilty. The disciplinary authority on 23-6-89 imposed the penalty of removal on the applicant. Appeal preferred by the applicant to the Additional Divisional Railway Manager failed and the applicant has therefore approached this Tribunal.

2. Several points were raised by the learned counsel for the applicant but we do not propose to deal with them in the present case. Suffice it to say that several grounds were raised in the appeal, but the appellate authority passed a non speaking order and no personal hearing was

given to the applicant. The right to be heard personally is an effective safeguard against the imposition of penalty in ~~an~~ arbitrary manner and we think that had the applicant been heard in person probably he would have been in a position to ~~persuade~~ the appellate authority to interfere with the punishment imposed. In ~~regard to~~ ^{view of} the decision of the Supreme Court in Ram Chander vs. U.O.I. & Ors. (ATR 1986(2) SC 252) we allow the present applicant ^{for} and set aside the order passed by the appellate authority and the order of the Revisional authority, which was in the nature of mercy appeal, and direct the appellate authority to give a personal hearing to the applicant in respect of the appeal preferred and then pass a speaking order in accordance with law. The appellate authority shall give personal hearing within two months from the date of communication of this order.

3. The application is disposed of accordingly with no order as to costs.


(R. Rangarajan)
M(A)


(M. S. Deshpande)
V.C.

M

16) 10/2/1995

(P)

Shri D.V. Gangal with
Shri C.M. Joshi for the
applicants

13/9/94
Order/Judgement despatched
to Applicant/Respondent(s)
on 8/3/94

Notice on CP No. 16/95.
Returnable on 24/4/1995.

DR
9/3/94.

3/ (M.R. KOLHATKAR) (M.S. DESHPANDE)
M(A). V/C.

OS.

C.P. No. 16/95
Filed on 10/2/95

3/11

Shri D.V. Gangal, counsel for
the applicant. Shri S.C. Dhavale,
counsel for the Respondents.

Respondents have filed their
reply to C.P. No. 16/95. The only
contention raised in the C.P. is
that, though the Appellate Authority
have heard the applicant, they
did not pass a speaking order.

3/12

Notices issued to
Applicant/Respondents on

20/2/95.

Yours
3/12

The Learned counsel for
the Respondents draws our attention
to exhibit-1 and wherein the speaking
Order has been passed pursuant
to the direction of the Tribunal on
4/5/1994 and the same has been
served on the applicant on
7/5/1994 and the applicant's signature
has been obtained in Marathi has
been obtained.

The Learned counsel for the
applicant, Shri Gangal submits that the
speaking order is served as
stated in the acknowledgement but
at the time of filing the C.P., the
copy was not given.

This statement is not
based on facts. In the circumstances
the C.P. No. 16/95 does not survive
and the same is rejected.

Reed. Reply to C.P. No
16/95, from Respondent
on 17/4/95)

(P)
2/4

dt. 24.4.95

Order/Judgement despatched
to Applicant/Respondent(s)
on 13/6/95

M.R. Kolhatkar
(M.R. Kolhatkar)
M(A)

(B.S. Hegde)
M(J)

OS.