

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

8

O.A. NO: 582/91

199

T.A. NO:

DATE OF DECISION 5.2.1992

Shri Suresh Sakharan Sarankar

Petitioner

Mr. M. A. Mahalle

Advocate for the Petitioners

Versus

Sr. Manager Mail Motor Service,  
Dept. of Posts, Bombay.

Respondent

Mr. V. M. Bendre for Mr. P. M.  
Pradhan, for the respondents.

Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. JUSTICE U.C. SRIVASTAVA, Vice-Chairman

The Hon'ble Mr. M. Y. PRIOLKAR, MEMBER (A)

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 ?

  
(U.C. SRIVASTAVA)  
Vice-Chairman

mbm\*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

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ORIGINAL APPLICATION NO: 582/91

Shri Suresh Sakharam Sarankar,  
Airoli Naka, Room No. 1686  
Behind Indian Timber, Thane.  
Belapur Road, New Bombay-400701

....applicant

V/s

Sr. Manager Mail Motor Service,  
Dept of Post, 134-A, Ahire Road,  
Worli, Bombay-400 018 & 4 ers.

....respondents

CORAM : HON'BLE JUSTICE MR.U.C.SRIVASTAVA, Vice-Chairman

HON'BLE MEMBER MR.M.Y.PRIOLKAR, MEMBER (A)

Appearance:

~~Mr. M. A. Mahalle~~, Adv. for  
the applicant.

Mr. V. M. Bendre, Adv. for  
Mr. P. M. Pradhan, Adv. for  
the respondents.

ORAL JUDGEMENT

5 TH FEB 1992

(PER : U.C.SRIVASTAVA, Vice-Chairman)

The applicant joined service as a Cleaner in the Department of Posts at Bombay. It appears that the applicant has been raising his grievance against his Inspector regarding salary and other purposes. The applicant also resorted to hunger strike, and threatened that he would go on hunger strike till death but that stage never arose. The applicant was made to <sup>break</sup> broke the hunger strike after 14 days on 26.6.1989. The applicant was served with a chargesheet wherein 4 charges were levelled against him, which are as follows:

- i) he left duty unauthorisedly on 3.5.1989.
- ii) he had been unauthorisedly absent on 4.5.1989.
- iii) From 5.6.1989 to 8.6.1989 though he joined the duties, he refused to perform the duties.
- iv) he resorted to hunger strike on 12.6.1989 to 26.6.89 and this resulted in contravention of Rule 3 of the C.C.S. (Conduct Rules).

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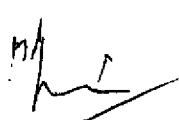
The applicant was served a chargesheet in English. The grievance of the applicant is that, the English language is not understood by him and although he protested against it and requested the Director to give him a copy of the chargesheet either in Hindi or in Marathi, yet the same was not done. Enquiry Officer was appointed and the proceeding was conducted in English language. ~~The~~ grievance of the applicant is that, the English language is not understood by him and not known to him, and he was seriously prejudiced. The Enquiry Officer has forwarded the enquiry report to the Disciplinary Authority and even at that stage the grievance of the applicant was that report of enquiry was again in English. The Disciplinary Authority passed an order of removal of the applicant from service. Against this removal order the applicant filed appeal to the Appellate Authority. The Appellate Authority has dismissed the appeal of the applicant. The Applicant has challenged the entire inquiry proceedings on various grounds including that the same was held with malafide intention and that the applicant was deliberately was not given an opportunity to put forth his case since he did not understand English, even though he repeatedly requested regarding language, the respondents refused to communicate with him and have not given the charge sheet either in Hindi or in Marathi, so that the applicant would be disabled from defending himself. He has pointed out various other <sup>flaws</sup> ~~clauses~~ in the inquiry proceeding. This matter could have been taken cognizance by the Appellate Authority. One of the grievance of the applicant is that the Appellate Authority has not given him a personal hearing and in case the personal hearing would have been given to the applicant, definitely he would have satisfied the Appellate Authority how the things are moving against him <sup>from</sup>

(A)

the begining and how <sup>he</sup> it has not been dealt with fairly. In this connection a reference has been made to the case of Ramchandra Vs. Union of India, 1986(2) SLJ 249, in which it has been held that the Appellate Authority has to give personal hearing to the applicant. The same has not been done in the case of applicant. The appellate order cannot be sustained in view of the law laid down by the Supreme Court in the above mentioned case and accordingly the Appellate Order dated 24.3.1990 is quashed. It is for the departmental authority itself to consider all the grievances of the applicant including that the maintainance of homogeneous relationship between the labour and the employer. The appellate authority is directed to dispose of the appeal filed by the applicant after giving personal hearing taking into consideration the pleas raised by him and the appellate authority shall pass a reasonable and speaking order. It will be open for the applicant to elaborate his appeal before the date of hearing by the appellate authority.

2. This matter is disposed of with above direction with no order as to costs.

3. The C.P. be listed separately for orders on 31.3.1992.



(M.Y. PRIOLKAR)  
MEMBER (A)



(U.C. SRIVASTAVA)  
VICE-CHAIRMAN

Dated 31-3-92

(12)

Shri M. A. Mahalle  
for the applicant.

2. Contemner shall  
appear before this  
Tribunal on 8th April  
1992 in person.

Notice is issued  
to the respondents  
on 31/4/92

B  
3/4

(M. Y. Priolkar) (U. C. Srivastava)  
MCA V.C.

Dated: 8.4.92

Applicant by Mr. S. Natarajan.  
Resps. by Mr. P. M. Padhan.

The Case on Contempt  
Petition No 44/91  
will be heard on  
11/6/92.

Above orders dt 8/4/92  
bete noted.

(C Mr. M. S. Kulkarni)

(Mr. M. S. Kulkarni)

In this case we have noticed  
that of course there is still no  
formal order for initiating the  
contempt proceedings. Accordingly,  
the proceedings under Contempt of  
Court Act are initiated against  
all the three respondents as a prima-  
facie case of contempt has been  
established after taking into consi-  
deration the application and the reply  
which has been filed by the resps.  
and the notice of initiation proce-  
dings may be served on all the  
three respondents.

Cont'd.

Cont'd. -

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Mr. Bradham appearing for the contemnors pointed out that in the application for allotment the applicant has mentioned only 'self' against Col. No. 16 and not wife or children. He has also stated in the reply that of course from the various documents it was clear that the applicant was staying along with his family members elsewhere. May it be so that he was staying elsewhere also but the premise was allotted in his favour and there was an interim order for status-quo. During the subsists of the interim order the actual eviction took place. Consequently a prime-facie case of contempt has been made out against the respondents and the charge is framed why they should not be punished for committing contempt of this Tribunal in forcibly taking possession of the premises and evicting the occupants despite the interim order of status-quo which was passed by this Tribunal of which you had notice. The parties will now tender evidence in support of their case. All the those contemnors shall appear personally on 11.6.92. Two of the contemnors are present today. They shall appear on the next date also.

8/4/92  
order/Judgement despatched  
to Applicant, Respondent (s)  
on 22.4.92

(M.Y. Briolkar)  
M (A)

(U.C. Srivastava)  
M/C

Dated 11.6.92

(18)

Present Mr. M. A. Mahalle, Adv. for the applicant and Mr. P. M. Pradhan, Counsel for the respondents.

In spite of the order dated 8.4.92 Shri R. Narasimhan has not cared to present himself personally before this Tribunal today. On the contrary, an application ~~purported to have been~~ signed by him on 11<sup>th</sup> May, 1992. An application which allegedly bears his signature has been presented before us today. In this application <sup>your</sup> attempt has been made to give some reasons as to why Shri Narasimhan has not complied with the earlier order. We are not satisfied with the contents of the application. We are informed that Shri Narasimhan is out of India. He is likely to return to this country in the last week of August, 1992. Shri Narasimhan is directed to file his personal affidavit before this Tribunal on or before 7.9.92 giving detailed reasons <sup>as to what</sup> ~~what~~ prevented him from appearing <sup>before</sup> ~~in~~ this Tribunal on 11.6.92.

List on 14.9.92. On that date Shri Narasimhan will appear in person before us. The other two contemners are present.

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Contd.

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Order

The learned counsel for the respondents informs us that the accommodation in question has not been allotted to anyone else and the same is still available for being occupied by the petitioner.

We direct the respondents to handover ~~the~~ peaceful possession of the said accommodation to the petitioner within a period of one week from today. The order is being passed in the presence of two contentment and the learned Counsel appearing for all the three respondents. It ~~was~~<sup>goes</sup> without saying that the petitioner will take possession of the accommodation in question subject to the decision of this petition.



(M. Y. P. N. K. K. K.)

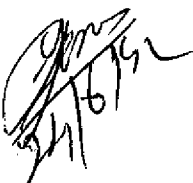
M(A)



(S. K. Dhara)

V.C.

11/6/92  
Order/Judgment despatched  
to Applicant/Respondent(s)  
on 22.6.92

  
21/6/92



C.P. 46/91 in

O.A. 582/91

Dated : 8.2.94  
TRIBUNAL'S ORDER

Heard Shri S. Natarajan counsel for the applicant. Shri P. M. Pradhan counsel for the respondents.

They have taken us through the record of the file including statements and the documents. We have considered the affidavit filed by Shri P. M. Pradhan in terms of our orders dated 10.9.93. We hold that the status-quo order passed by the Tribunal on 2.8.91 was prima facie violated by the actions taken by the respondents. We allow 15 days' time to Shri P. M. Pradhan to seek instructions. At this stage it is stated by Shri P. M. Pradhan that Shri M. S. Kaulgud who was directly incharge of the estate department responsible for eviction is present. Shri Kaulgud has offered unconditional oral apology in consideration where of we dispose of the C.P. with the following order.

ORDER

C.P. disposed of in view of unconditional apology by the Contemner. As the case has dragged on for over two years, the prayer of Shri Natarajan, counsel for applicant/petitioner <sup>for costs</sup> is allowed ~~the cost~~. The costs are quantified at Rs. 500/- to be paid by respondent <sup>Department</sup> to applicant within one month of this order.

C. P. disposed of.

*Lakshmi Swaminathan*  
(Smt. Lakshmi Swaminathan)  
Member (J)

*MR Kolhatkar*  
(M.R. Kolhatkar)  
Member (A)