

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

[REDACTED]
[REDACTED] BOMBAY BENCH

O.A. No. 118/91

198

~~P.A. No.~~

DATE OF DECISION 3.2.92

Mr. A.V. Bapat

Petitioner

----- Advocate for the Petitioner(s)

Versus

Union of India & Ors.

Respondent

Mr. A.I. Bhatkar

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. Justice U.C. Srivastava, V/C

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? ✓

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

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Original Application No.118/91

Arun V.Bapat ... Applicant

V/s

Union of India & Ors. ... Respondents

CORAM : Hon'ble Vice-Chairman, Shri Justice U.C.Srivastava
Hon'ble Member (A), Shri M.Y.Priolkar

Appearances:

Applicant in person.

Mr. A.I.Bhatkar, Counsel
for the respondents.

ORAL JUDGMENT:

Dated : 3.2.1992

(Per. U.C.Srivastava, Vice-Chairman)

The applicant is a scientist working as Senior Research Officer in the Central Water & Power Research Station (for short CWPRS), Pune under the Ministry of Water Resources was interviewed for the post of Chief Research Officer on 21st July 1988 but the result of the same was kept in sealed cover as a departmental enquiry against him was proceeding. The departmental enquiry was completed in the year 1989 and the disciplinary authority passed an order on 2nd February 1990. It appears that the President found various infirmities in the departmental proceedings and consequently the proceedings were set aside and a de-novo enquiry was ordered. ~~Against this~~ The applicant had earlier filed an O.A. against the departmental proceedings (OA 652/91) which came up for consideration before this Tribunal wherein it was held that the same application has become infructuous but it was observed that it is expected that the respondents will act in accordance with law in the matter of promotion taking into

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consideration that at present there is nothing against the applicant apart from the charge sheet. Thereafter the applicant was again interviewed on 9.4.1991 but the result was kept in sealed cover. The applicant who appears in person states that because of the enquiry proceedings although he was interviewed but the result was not declared and kept in sealed cover. He contended that the de-novo enquiry is without jurisdiction and in this connection he tried to make reference to some cases. His contention was that there is only a charge sheet against him, enquiry on which will be without jurisdiction as the charge sheet will also be nonest with the result that the respondents are bound to declare his results. Respondents have challenged the plea raised by the applicant and stated that they have followed the prescribed procedure. In such/^{matter}the procedure which was followed by the department as prescribed by the Government of India has been also placed on the record. In the case of Union of India v. K.V. Nankiraman & Ors., AIR 1991 SC 2010 it was held that the promotion etc. cannot be withheld merely because some disciplinary/criminal proceedings are pending against the employee. To deny the said benefit, they must be at the relevant time pending at the stage when charge-memo/charge-sheet has already been issued to the employee. When an employee is completely exonerated meaning thereby that he is not found claim in the least and is not visited with the penalty even of censure he has to be given the benefit of salary of the higher post along with the other benefits/^{from}~~on~~ the date on which he would have normally been promoted but for the disciplinary criminal proceedings. On behalf of the respondents the contention is that the applicant has not been exonerated and the charge sheet is pending. Of course we are not called upon to adjudicate whether on the basis of the said charge sheet a further enquiry proceeding can go ahead or not or that the charge sheet is to be treated

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as nonest in view of the fact that no de-novo enquiry can take place in respect of the charges. Incidentally, as pointed out, the charge against the applicant is in respect of his foreign visit which was said to be unauthorised. Whatever may be the position, but the present position is that in view of the fact that the President has quashed the entire proceedings against the applicant it will be deemed as if the charge sheet against the applicant has been issued on the date the President ordered the de-novo enquiry and not when the charge sheet was issued in respect of proceedings which has been quashed. Accordingly, since the applicant having been interviewed earlier and the result of which has been kept in sealed cover the respondents will open the sealed cover and declare the result. The respondents are directed to open the sealed cover within a period of one month from the date of communication of this order and in case the applicant has been found fit he may be promoted and given all the consequential benefits *due*, including promotional benefits to the higher posts, *in accordance with law*.
No order as to costs.



(M.Y. Priolkar)
Member (A)



(U.C. Srivastava)
Vice-Chairman

v/-

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

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C.P. 86/92 in

Original Application No.118/91

Tribunal's Order

Dated: 25.9.92


Applicant in person. Shri A.I. Bhatkar, for Mr. M.I. Sethna, counsel for the respondents.

The complaint in this application is that the direction given by this Tribunal in its order dated 3.2.92 has not been carried out. A reply has been filed on behalf of respondents.

In substance the direction given by this Tribunal was that the result of the interview of the applicant which had been kept in a sealed cover shall be opened and the respondents shall declare the result. They were also directed that, if upon the declaration of the result, the applicant had been found fit he shall be given promotion and all the consequential benefits.

The applicant, who appears in person, does not dispute the fact that in pursuance of the direction the sealed cover was opened. He also does not dispute the fact that he has received the communication that upon the opening of the sealed cover it was discovered that he was not found fit. Therefore, the directions given by this Tribunal have been carried out in their entirety. The applicant has vehemently ^{ten}conded that, he having been found unfit by the D.P.C., his matter should not have kept in the sealed cover, instead the result should have declared then and there. According to him, the authority concerned acted illegally in placing his matter in a sealed cover. Be that as it may, the said illegality has no relevance with the contempt proceedings.

C.P. 86/92 is rejected. We, however, make it clear that it will be open to the applicant to file a fresh application, if he feels aggrieved and if he is so advised.


(M.Y. PRIOLKAR)
MEMBER (A)


(S.K. DHAON)
VICE CHAIRMAN

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