

(S)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 683/91

Transfar Application No: --

DATE OF DECISION: 14-12-94

Shri Bhimsen Ashraji Bhujang

Petitioner

Mr. J.M.Tanpure

Advocate for the Petitioners

Versus

The Director, NCL, Pune & one anr.

Respondent

Mr. J.P.Cama

Advocate for the Respondent(s)

CORAM :

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

The Hon'ble Shri P.P.Srivastava, Member(A)

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


(B.S.HEGDE)
Member(J)

M

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A.683/91

(A)

Shri Bhimsen Ashraji Bhujang,
Residing at Bahirat Chawl,
H.No.18, Near Railway Gate,
Dapodi, Pune.

.. Applicant

-versus-

1. The Director,
National Chemical
Laboratory, Pashan,
Pune - 411 008.
2. The Director General,
Council of Scientific
and Industrial Research,
CSIR Head Quarters,
Room No.27,
Rafi Marg,
New Delhi - 110 001. .. Respondents

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

Hon'ble Shri P.P.Srivastava,
Member(A)

Appearances:

1. Mr.J.M.Tanpure,
Counsel for the
Applicant.
2. Mr.J.P.Cama
Counsel for the
Respondents.

ORAL JUDGMENT:
(Per B.S.Hegde, Member(J))

Date:14-12-1994

Heard the counsel for the parties
and perused the pleadings. The only short point
for consideration is whether in view of the
acquittal by the criminal court against the
charges levelled against the applicant, the
respondent is justified in imposing the penalty
of removal in view of the departmental enquiry
conducted against the applicant ex-parte.

Subsequent to the acquittal of the applicant,
the State of Maharashtra went in appeal vide
Criminal Appeal No.350/85 which was dismissed
on 17-3-86 at the admission stage itself

10

confirming the acquittal of the applicant.

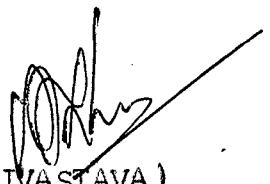
After the acquittal by the High Court after 2½ years the applicant preferred an appeal on 15-9-89 to the D.G. CSIR which has been disposed of by the appellate authority vide order dated 12-3-91 stating that "the judgment delivered by the Judicial Magistrate also reveals that exoneration has been made on the basis of non-examination of panch witnesses. This has been found to be a technical lacunae and the benefit of doubt has been given to Shri Bhujang. This does not debar the disciplinary authority in taking disciplinary action independent of the criminal case. " Ultimately, he confirmed the penalty imposed on the applicant by the disciplinary authority vide order dated 1-6-1982.

2. In the circumstances the only point for consideration is whether the respondent is justified in passing the delayed appellate order in the year 1991 without giving any person hearing to the applicant especially when the enquiry was held ex-parte.

3. Keeping in view, the ratio laid down by the Supreme Court in Ramchander's case (AIR 1986 SC 1173) we feel that it would be just and proper to direct the respondents, especially in view of the past service rendered by the applicant for a period of 19 years, to give him an opportunity of personal hearing and pass a speaking order in this matter. In the meanwhile, the applicant may furnish a detailed representation to the competent authority to consider his case afresh.

4. Accordingly, we quash the order passed by the appellate authority dated 12-3-1991 and direct him to pass a speaking order after giving a personal hearing within a period of three months on receipt of the representation ^{from} L the applicant.

5. The O.A. is disposed of accordingly with no order as to costs.


(P.P. SRIVASTAVA)
Member(A)


(B.S. HEGDE)
Member(J)

M