

(8)

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**BOMBAY BENCH**

0.A.NO. 725/91

DATE OF DECISION: 2.2.1995

Smt. Leela S. Gaikwad ..Applicant

V/s

Union of India & Ors. ..Respondents

Coram:

The Hon'ble Shri Justice M.S.Deshpande, Vice Chairman

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 ? *NP*

  
Vice Chairman

(9)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, 'GULESTAN' BUILDING NO.6  
PRESOCOT ROAD, BOMBAY 1

O.A.NO. 725/91

Smt. Leela S. Gaikwad ..Applicant

v/s

Union of India & 2 ors. ..Respondents

Coram: Hon. Shri Justice M.S.Deshpande, V.C.  
Hon. Shri P.P.Srivastava, Member(A)

Appearance:

Mr. R.C.Raviani  
Counsel for the applicant

Mr. R.K.Shetty  
Counsel for the respondents

ORAL JUDGMENT: DATED: 2.2.1995  
(Per: M.S.Deshpande, Vice Chairman)

By this application the applicant challenges the order of her removal, as a sequel to a departmental inquiry, passed on 14.7.90 and the appellate order confirming the removal which was passed on 12.8.1991.

2. The applicant was appointed as a Nurse in 1982 and a charge was framed against her on 30.6.1986 to the effect that she had indulged in money lending transaction in June 1984 by advancing Rs.2,000/- to a Ward Assistant. On October 17, 1985 the applicant was said to have snatched the bonus money which Smt. Nirmala Ahire had received. Upon this charge an enquiry was held that the enquiry officer made a report on September 5, 1989 holding that only the lending part of the amount had been proved and that no interest was charged by the applicant and the

charge that bonus money was snatched from Smt. Nirmala Ahire was not proved. The disciplinary authority disagreed with the findings recorded by the inquiry officer and held that the snatching of the amount had also been proved. The disciplinary authority's letter dated 14.7.90 shows that the reasons for disagreeing with the finding of the enquiry officer were also made available to the applicant but those reasons were handed over together with the order imposing penalty and not earlier.

3. The main contention on behalf of the applicant was that she should have been allowed an opportunity to show cause against the proposal of the disciplinary authority for disagreeing with the enquiry officer's report and since such an opportunity was not given to the applicant the order was bad. Reliance is placed on the observaion of the Supreme Court in NARAYAN MISHRA Vs. UNION OF INDIA. SLR 1969 SC p. 657.

4. Shri Relvani, Id. Counsel for the applicant urged that he had raised objection also against joint enquiry into the cross complaints filed by the applicant in respect of the same incident as well as Smt. Nirmala Ahire and this has prejudiced the applicant.

5. Since the matter has to go back to the disciplinary authority in the light of the observations in NARAYAN MISHRA's case (supra),

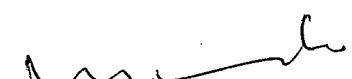
.3.

we do not express any opinion on this point. It would be open to the applicant to raise all the objections which she may have in this respect before the disciplinary authority and after the disciplinary authority's finding, if it goes against her, before the appellate authority.

6. In the result we allow the application and set aside the order of removal passed by the disciplinary authority and the appellate authority. The disciplinary authority shall give an opportunity to the applicant to show cause against the proposed step of disagreeing with the enquiry officer's report and after hearing the applicant on this point as well as on the other points which the applicant may like to raise before the disciplinary authority regarding the finding on the basis of the material before him and pass such order regarding penalty as he may consider fit. Should an appeal be preferred by the applicant against the disciplinary authority's order <sup>the</sup> appellate authority shall pass a <sup>reasoned</sup> order while deciding the appeal. We direct the disciplinary authority to complete the proceedings before him within four months from the date of receipt of a copy of this order. With these directions the O.A. is disposed of.

  
(P.P. Srivastava)

Member(A)

  
(M.S. Deshpande)  
Vice Chairman