

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A. NO: 365/91

199

T.A. NO:

DATE OF DECISION

30.6.92

SHRI A.S.KHOT

Petitioner

~~SHRI~~ Applicant in person

Advocate for the Petitioners

Versus

THE UNION OF INDIA AND  
STATE OF MAHARASHTRA.

Respondent

Mr.P.M.Pradhan, for Union of India

Advocate for the Respondent(s)

Mr.G.K.Nilkanth, for State of Maharashtra

CORAM:

The Hon'ble ~~Mr.~~ USHA SAVARA, MEMBER (A)

The Hon'ble Mr. J.P.SHARMA, MEMBER (J)

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 ?

*J.P.Sharma*  
(J.P.SHARMA)  
MEMBER (J)

mbm\*

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

ORIGINAL APPLICATION NO.365/91

MR.A.S.KHOT,  
J.T.SECRETARY  
Revenue of Forest Dept.  
Mantrayalaya, Bombay.

....Applicant

v/s

1. The State of Maharashtra

2. The Union of India, .... Respondents.

CORAM : HON'BLE MEMBER USHA SAVARA, MEMBER(A)

HON'BLE MEMBER SHRI J.P.SHARMA, MEMBER(J)

Appearance:

Applicant in person.

Mr.G.K.Nilkanth, Adv.  
for State of Maharashtra.

Mr.P.M.PRADHAN, Adv.  
for Union of India.

ORAL JUDGEMENT

30th JUN 1992

(PER : J.P.SHARMA, M/J)

The applicant in this O.A. is an Officer of I.A.S.cadre, direct recruit of 1973 batch having been senior by virtue of Army service, which he has put in earlier to taking of Indian Service Examination in the relevant year. It appears that, the applicant has earlier certain grievance for which he had came to the Tribunal and filed O.A. 559/87, questioning his suspension and also certain disciplinary proceedings pending against him at that time. That O.A.559/89 was disposed of by the Tribunal by the order dated 3.1.1992, and the respondents were directed to finalise the disciplinary proceedings against the applicant within a time limit of six weeks from that date i.e. the date on which the order was pronounced. The respondents however, appears to have desired extention of time which was

not favourably considered by the Tribunal. Earlier to the disposal of O.A.No.559/87, he has also filed O.A. No. 365/91 in which he has prayed the following prayers:

- a) That this Hon'ble Tribunal be pleased to hold that the Respondents have wilfully contravened the principles of natural justice and the relevant provisions of the applicable regulations and office instructions in the conduct of the departmental enquiry initiated against him;
- b) That in the said premises, this Hon'ble Tribunal be further pleased to declare that the enquiry initiated by the Respondent No.1 against the Applicant is void-ab-initio and the finding of enquiry authority perverse.
- c) That the Respondent be restrained by an appropriate order or direction from imposing any major or minor punishment upon the Applicant pursuant to the finding of the inquiry authority
- d) That this Hon'ble Tribunal be further pleased to direct the respondents to release to the Applicant all the increments he is entitled to but which have been withheld by the Respondent without any authority and jurisdiction, with interest calculated at the rate of 18% per annum from the date the payment fell due till date of payment.

e) That this Hon'ble Tribunal further be pleased to direct the Respondents to promote the applicant to the Super Time Scale with retrospective effect.

f) That this Hon'ble Tribunal be pleased to call for all the papers and proceedings of the Enquiry and after ascertaining the impropriety and illegality thereof be pleased to quash and set aside the findings of the Enquiry Officer.

2. The learned counsel appeared for the respondents; Mr.P.M.Pradhan, for Union of India and Mr.Nilkanth, for Government of Maharashtra have been heard. The learned <sup>has</sup> counsel for the Union of India given a statement at the Bar that the order passed by the Tribunal on 3.1.1992 and the subsequent order of ~~none~~ extention of time for concluding the disciplinary proceeding have been assailed by way of Special Leave Petition before the Hon'ble Supreme Court alongwith appeal. It is also stated that the matter is pending before the Hon'ble Supreme Court for admission and the same has been delayed because of the vacation.

3. As regards to the relief a, b and c referred to above are concerned, they have already stand covered by the judgement of 3.1.1992. This cannot be again adjudicated upon/<sup>on</sup> the principle of res judicata.

4. As regards to the relief (d) and (e) referred to above are concerned, naturally after the time allowed to the respondents have lapsed, the applicant should have made an effective detailed representation to the respondents for benefits, which he has prayed in these reliefs. The first application was filed in 1991 and then these reliefs were

claimed, when there was no cause of action available to the applicant. Under Section 20 of the Administrative Tribunals Act, 1985, the applicant has first to exhaust his departmental remedy and after the departmental remedy is not granted or no response is given to the applicant for a period of six months from the date of his representation, only then the petitioners's application maintainable under Section 19 of the Administrative Tribunals Act, 1985.

5. The applicant has been specifically asked at the time of hearing, whether he had made any effective representation after the judgement of O.A. 559/87 decided on 3.1.1992 and he clearly stated that he made one representation on 21.4.1992. The period of six months therefore as per this reply given by the applicant himself is not yet over and so the application as regards the relief(d)and(e) referred to above is premature. No other relief which may benefit the applicant has been claimed in this application. The reliefs (f), (g) and (h) are of the notional reliefs of summoning /documents etc which may help the applicant in the way for the granting the relief referred to above i.e. (d) and (e). In view of these facts, and the ratio of decided cases of B. Parmeshwara Rao V. Telecommunication and ors. decided by FULL BENCH reported in Vol-II page 256, the application cannot be proceed further.

6. While disposing of this application, we direct that the applicant may make another effective representation for the aforesaid reliefs or wait for the representation already made in April 1992 and if he is still aggrieved then he will be at liberty to come to this Tribunal

subject to the law of limitation. This application  
therefore disposed of with no order as to the costs.

J. P. Sharma  
(J. P. SHARMA) 30.6.92.  
MEMBER (J)

Usha Savara  
(USHA SAVARA) 30.6.92.  
MEMBER (A)