

(S) 10

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 776/91

Transfer Application No:

DATE OF DECISION: 25.10.1994.

Jaswant Singh Sahota Petitioner

Shri G.S.Walia Advocate for the Petitioners

Versus

Union of India & Ors. Respondent

Shri Ramamurthy Advocate for the Respondent(s)

CORAM :

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

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

1. To be referred to the Reporter or not? *no*
2. Whether it needs to be circulated to other Benches of the Tribunal? *no*


(M.S.DESHPANDE)
V.C.

(19)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY.

O.A.776/91

Jaswant Singh Sahota ... Applicant.

V/s.

Union of India & Ors. ... Respondents.

CORAM: Hon'ble Shri M.S.Deshpande, Vice Chairman.
Hon'ble Shri P.P.Srivastava, Member(A).

APPEARANCES:

Shri G.S.Walia, Counsel for
applicant.
Shri Ramamurthy, *Counsel for
respondent.

ORAL JUDGEMENT:

DATED : 25th Oct, 94.

X Per Shri M.S.Deshpande, Vice Chairman.

The applicant who is working as head TTE was charge-sheeted on 2.8.1985 for having committed misappropriation and cheating. The Charge sheet against him was issued by one Shri J.D.Haldar purporting to the act as disciplinary authority who was looking after the current duties of Divisional Commercial Supdt.(I), Bombay Central., with the result that the order of removal was passed on 3/6/86. The appeal against that order was dismissed on 14/10/86 and the revision petition to the General Manager was dismissed on 14/10/87. He further submitted that he had thereafter filed a revision petition to Respondent-I bringing therein various infirmities in the conduct of the proceedings by the Enquiry Officer and Disciplinary Authority and inter-alia prayed therein that his case be referred to the Railway Rates Tribunal, for advice, and on the advise tendered by that tribunal, order of removal was served.

The only contention which was raised before us was that Shri Haldar who had ^{been} charge-sheeted and by

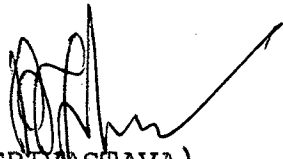
(19)

whom proceedings were initiated against the applicant, was not competent to do so and therefore the entire proceedings were vitiated. In Shri Laxminarayan M. Sharma V/s. Union of India & Ors. in OA No.34/89 dt. 6/10/94, an identical case was considered and it was held that Shri Haldar was not competent to initiate the charge-sheet against the applicant as considered in an earlier decision on the same point in respect of same officer. It is very clear that the initiation of the proceedings against the applicant by Shri Haldar cannot be held to be valid and that Shri Haldar was not competent to initiate the proceedings against the applicant and impose penalty on the applicant.

We therefore quash order of removal. *and the substitution and minimal order* Shri Wallia Learned Counsel for the applicant contended that in view of the direction issued, the applicant would be entitled to entire backwages. Shri Ramamurthy, Learned Counsel for the respondents urged that since the charges are serious and the disciplinary proceedings are being quashed not on the merits, liberty should be granted to the respondent to initiate proper proceedings against the applicant in respect of same charges. Having regard to the seriousness of the charges, we allow the respondents to initiate a fresh enquiry against the applicant on charges which had been framed earlier, by issuing a fresh charge sheet by an authority which is competent to initiate the proceedings. Since we are allowing proceedings to be initiated afresh we will not be justified in issuing the directions straightway for payment of backwages in view of the provisions of para 1342, 1343 and 1344 of the Railway Establishment Code - Volume-II. We leave it to the competent authority, to calculate the amount of the backwages, in accordance with the rules as to what



amount should be paid to the applicant during the period from the date of his removal i.e. 3/6/86 upto date. We, however, leave it to the competent authority to initiate the action for this purpose within two months from the date of receipt of copy of this order. The action in this respect shall be completed within two months of its initiation. With this direction, this OA is disposed of.



(P.P.SRIVASTAVA)
M(A)



(M.S.DESHPANDE)
V.C.

abp

C.P. No. 170/95
Hired for order
on 15/12/95

2
11/12

15/12/95-24

12

Shri G.S. Wadia, Counsel
for Applicant.

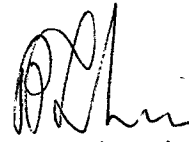
He has filed CP-170/95


Issue notice to respondents
to file reply on

CP-170/95.

S.O. till 5/2/96.

(2)


(P.P. Srivastava)
M(A)


(B.S. Hegde)
M(J)

aly.

Notice issued to
App / Respondents on

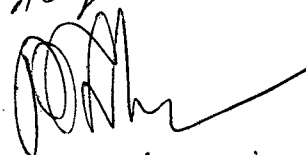
5/1/96


Jali
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Dated: 5/2/96 (16)

Heard Sh. G.S. Wadia for the
applicant and Sh. M.S. Ramamurthy
counsel for the respondents.
Sh. Ramamurthy seeks time
to file reply to C.P.

Adjourned to 25/3/96.


(P.P. Srivastava)
M(A)


(B.S. Hegde)
M(J)

B
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(15)

Dated: 25.3.96 (39)

Shr G.S. Walia, Counsel for
the applicant. Shr M.S.
Ramanulky, Counsel for the
respondents.

Applicant has filed
C.P. 170/95.

Respondents are directed
to produce the cheque
on the next date of hearing

Adjourned to 26.4.96.

V II / 10
A

<u>M/R Kolhatkar</u>	<u>B. S. Hegde</u>
(M. A. Kolhatkar)	(B. S. Hegde)
M(A)	M(J)

AB

Dated: 26.4.96 (52)

Shr G.S. Walia, Counsel for
the applicant. Shr M.S. Ramanulky
Counsel for the respondents

S.O. to 28.6.96.

<u>M/R Kolhatkar</u>	<u>B. S. Hegde</u>
(M. A. Kolhatkar)	(B. S. Hegde)
M(A)	M(J)

AB

Order/Judgement despatched
to Applicant/Respondent (s)
on 29/3/96

24/4/96

(18)


Dated: 28-6-96. (32)

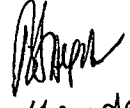
Shr G.S. Walia, counsel for the applicant. Shr R. Ramamurthy counsel for the respondents.


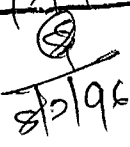
Shr Walia states that the respondents are given the cheque. He further states that he will verify the legal procedure.

In the circumstances C.P. has become infunctious and the same is dismissed.

V.S.C.


(P. P. Sinastava)
M(A)


(R. S. Hegde)
M(J)

dt. 28/6/96 
order/Judgement despatched
to Applicant/Respondent (s)
on 5/7/96

5/7/96