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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

(7)

O.A. NO: 166/91 199
T.A. NO:

DATE OF DECISION 3.7.92

Pannalal Bharat Petitioner

Ms. Jane Cox Advocate for the Petitioners

Versus

CHIEF ENGINEER, W.R. Respondent
Charchgate-Bombay-20
and ors.

N.K. Srinivasan Advocate for the Respondent(s)

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 ?

Usha

Usha Savara
(USHA SAVARA)
MEMBER(A)

3.7.92

mbm²
SPC

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

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ORIGINAL APPLICATION NO.166/91

Pannalal Bharat,
Ex.Khalasi, Western Railway,
Ambiwadi, Road No.32,
Wagle Estate,
Thane-400604.

....Applicant

V/s

1. Chief Engineer,
Survey and Construction
Vasai Bridge, Western Railway,
8th, floor,
Churchgate,
Bombay-400020.

2. General Manager,
Western Railway,
Churchgate,
Bombay - 400020

....Respondents.

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

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

Appearance :

Ms.Jane Cox for the applicant.

Mr.N.K.Srinivasan, for the
Respondents.

JUDGEMENT

DATED: 3.7.92

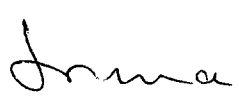
(PER : USHA SAVARA, M/A)

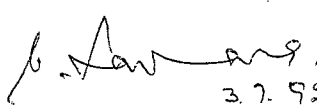
This application has been filed impugning order dated 31.1.1991 passed by the Appellate Authority rejecting his appeal and confirming the penalty of removal from service. The applicant was given a chargesheet on the ground that he had obtained appointment by producing a bogus and fictitious service card, and hence, he had violated the Rule 3(1)(i) and (iii) of the Railway Service Conduct Rules, 1966. An Enquiry Officer was appointed even without waiting for the applicant's reply to the charge-sheet, as the disciplinary authority had already made up his mind that the applicant was guilty.

The Enquiry Officer recorded his finding and the Disciplinary Authority removed the applicant from service on the basis of the Inquiry Report. The appeal was dismissed on 31.1.1991. Various grounds had been taken for challenging the enquiry proceeding- including no opportunity of hearing, non-furnishing of enquiry report, and not being shown various records and documents which were relied upon by the Enquiry Officer.

2. The main ground agitated before us is that the appellate authority did not give any personal hearing. It has been held in the case of Ram Chandra V/s Union of India and others SC AIR 1986(2) 252 that giving of personal hearing by the Appellate Authority is essential whenever disciplinary authority passes an order. The duty to give reasons is an incident of the judicial process. There has to be application of mind and marshalling of evidence, and not merely mechanical reproduction of phraseology of the Rules. The word "consider" means an objective consideration after due application of mind, which implies giving reasons for its decision. Considerations of fair play and justice also require a personal hearing, which has not been given to the applicant.

3. Accordingly, the application is allowed, and we quash the order dated 31.1.1991 and direct the appellate authority to give a personal hearing to the applicant, taking into consideration all the pleas raised by him challenging the entire proceedings, and pass a speaking order within a period of two months from the date of receipt of a copy of this order. There is no order as to costs.


(J.P. SHARMA) 3.7.92
MEMBER(J)


(USHA SAVARA) 3.7.92
MEMBER(A)