

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

(13)

RP NO.1/93 IN O A NO.418/92

Madhukar Ramchandra Borwankar
Balaji Temple
Tilak Chowk
Kalyan 301

Applicant

v/s

Union of India
through General Manager
Central Railway
Bombay and another

Respondents

Coram: Hon. Shri Justice S K Dhaon, Vice Chairman
Hon. Shri M Y Priolkar, Member (A)

TRIBUNALS ORDR:
(Per: S K Dhaon, Vice Chairman)

DATED: 15.1.1993

This is an application seeking the review of our judgment and order dated 7.9.92 passed in OA No. 418/92.

The ~~principa~~ prayer made in the Original Application was that the chargesheet dated 24.9.91 issued to the applicant may be quashed in view of the honourable acquittal of the applicant by a competent criminal court on charges similar and identical to those which was the subject matter of the departmental proceedings. The second ground for attacking the legality of the departmental proceedings was the alleged inordinate delay in the initiation of the proceedings.

We had passed a detailed order on 7.9.92. We had noted that the applicant along with the station master concerned were put up for trial before the Judicial Magistrate First Class, Pune to face charges under Sections 304(A), 279, 337, 338, 428 of the Indian Penal Code and Section 101 of the Indian Railways Act. In our

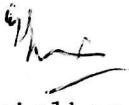
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judgment we had considered the charges leveled against the applicant in the departmental proceedings and had recorded our finding that Section 101 of the Indian Railways Act covered three situations, namely those contained in sub-sections (a), (b) and (c). We had also recorded our finding that in the criminal proceedings the applicant ~~who~~ had been subjected to a charge which fell under sub-section (c) of Section 101 of the Railways Act. We had also recorded our finding that in the departmental proceedings the charges could fall under Section 101 (a) and (b). We, therefore, refrained from quashing the departmental proceedings.

We have gone through the contents of the review application. The thrust of the allegation is that our judgment proceeds on an assumption and presumption that in the criminal proceedings the charge against the applicant ~~was~~ is confied to Section 101(c) of the Indian Railways Act apart from some other provisions of the Indian Penal Code. It may be that we might have erred in giving our judgment. However, an erroneous judgment cannot be reviewed by ~~the~~ ^{exercising} deciding power under Order 47, Rule 1 of the Civil Procedure Code.

We are disposing of this application by adopting the process of circulation which is permissible under the Rules.

The application is rejected.


(M Y Priolkar)
Member(A)


(S K Dhaon)
Vice Chairman