

(2)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH  
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O.A. NO: 915/92

199

~~P.A. NO:~~

DATE OF DECISION 11/11/92

Shri K.B.Maistry

Petitioner

Shri D.V.Gangal

Advocate for the Petitioners

Versus

Union of India & Ors.

Respondent

Shri V.S.Masurkar

Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. Justice S.K.Dhaon, Vice Chairman

The Hon'ble Mr. M.Y.Priolkar, Member (A)

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 ?

*Sy*  
(S.K.Dhaon)  
Vice Chairman

mbm\*

(3)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, BOMBAY

DA.NO. 915/92

Shri Keshav B.Maistry ... Applicant  
V/S.  
Union of India & Ors. ... Respondents

CORAM: Hon'ble Vice Chairman Shri Justice S.K.Dhaon  
Hon'ble Member (A) Shri M.Y.Priolkar

Appearance

Shri D.V.Gangal  
Advocate  
for the Applicant

Shri V.S.Masurkar  
Advocate  
for the Respondents

JUDGEMENT

Dated: 11-11-92

(PER: S.K.Dhaon, Vice Chairman)


The order dated 21.4.1992 passed by the Vice Admiral to the effect that the applicant shall be deemed to have been placed under suspension w.e.f. 13.3.1989 is being impugned in the present application.

2. The applicant was removed from service by an order dated 5.12.1987. This Tribunal on 13.2.1992 set aside the said order on the technical ground that the punishing authority before passing the order of punishment did not furnish to the applicant a copy of the report of the Enquiry Officer. In the impugned order it is recited that the punishing authority has taken a decision that the disciplinary proceedings should be reinitiated against the applicant from the stage of handing over a copy of the Enquiry Officer's report.

3. The impugned order has been passed in the exercise of power under sub-rule 4 of Rule 10 of CCS(CCA) Rules, 1965. The decision of the Supreme Court in the case of NELSON MOTIS V. UNION OF INDIA AND ANOTHER 1992(2) SCALE page 476 has set

the controversy at rest and it is now firmly ruled that sub-rule 4 of Rule 10 of the aforesaid rules shall be applicable even to a case where no order suspending a Government servant had been passed at any stage during the pendency of disciplinary proceedings or on a date preceding the date on which an order of punishment is given. The limitation imposed by the Supreme Court is that the order of punishment should be set aside on technical ground and authority concerned should take a prior decision to reinitiate the disciplinary proceedings. These conditions are fulfilled in the instant case.

4. In view of the decision of the Supreme Court, we have no alternative but to dismiss this application summarily. We, accordingly, do so.

  
(M.Y. PRIOLKAR)  
MEMBER (A)

  
(S.K. DHAON)  
VICE CHAIRMAN

mrj.