

(4)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 940/92

Transfer Application No:

DATE OF DECISION: 15.2.1995.

L.P.Peddawad

Petitioner

Shri S.P.Kulkarni.

Advocate for the Petitioners

S

Versus

Union of India & Ors.

Respondent

Shri S.S.Karkera.

Advocate for the Respondent(s)

CORAM :

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

The Hon'ble Shri M.R.Kolhatkar, Member(A).

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

m.s.d
(M.S.DESHPANDE)
VICE-CHAIRMAN.

(S)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
BOMBAY BENCH, BOMBAY.

Original Application No. 940/92.

L.P.Peddawad.

... Applicant.

V/s.

Union of India & Ors. ... Respondents.

Coram: Hon'ble Shri Justice M.S.Deshpande,
Vice-Chairman,
Hon'ble Shri M.R.Kolhatkar, Member(A).

Appearances:-

Applicant by Shri S.P.Kulkarni.
Respondents by Shri S.S.Karkera.

Oral Judgment:-

(Per Shri M.S.Deshpande, Vice-Chairman) Dt.15.2.1995.

The applicant who was working as Extra Departmental Branch Post Master at Nalgir was charged with having mis-appropriated two amounts of Rs.25/- and Rs.50/- in two recurring deposits accounts while working as EDBPM on 4.8.1990. The Enquiry Officer found that the applicant was not guilty, but the Disciplinary Authority by the order dt. 26.8.1991 dis-agreed with the finding after considering one additional document and found the applicant guilty and imposed the penalty of removal on him.

2. The only contention which has been raised before us is that the document which the Disciplinary Authority examined had not been produced at the time of the inquiry and even after examining that document no opportunity was given by the Disciplinary Authority to the applicant to show cause against the intended finding. Shri Kulkarni for the applicant urges that this was the only material which was taken into consideration against the applicant and

since the applicant did not have an opportunity to show cause against that material the inquiry was bad. It is obvious that the material was considered by the Disciplinary Authority against the applicant behind his back without giving him an opportunity to show cause against the intended action and therefore there was contravention of proviso (2) Article 311 of the Constitution of India.

3. We therefore quash the order passed by the Disciplinary Authority and by the Appellate Authority affirming that action and direct that the Respondents shall institute a de novo inquiry against the applicant and after giving ~~him~~ an opportunity to the applicant to lead the charges in accordance with the rules and take such steps as may be permissible under the rules. The Disciplinary Authority shall complete the proceedings as far as possible within six months from the date of the communication of the order and till then the applicant will be considered to be ~~put off duty~~ ^{on} With these directions, the O.A. is disposed of.

M.R. Kolhatkar

(M.R. KOLHATKAR)
MEMBER (A)

M.S. Deshpande
(M.S. DESHPANDE)
VICE-CHAIRMAN

B.