

(S)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 41/92

~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~

DATE OF DECISION 18.2.1994

Shri Sunilkumar J. Vyas Petitioner

Shri G.S.Walia Advocate for the Petitioners

Versus

Union of India & Ors. Respondent

Shri J.G.Sawant 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. ~~Whether Reporters of local papers may be allowed to see the Judgement ?~~
2. To be referred to the Reporter or not ? *no*
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 ? *no*

M.R. Kolhatkar

(M.R.KOLHATKAR)
MEMBER (A)

M.S. Deshpande

(M.S.DESHPANDE)
VICE CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

OA.NO. 41/92

Shri SunilKumar J.Vyas

... Applicant

V/S.

Union of India & Ors.

... Respondents

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

Appearance

Shri G.S.Walia
Advocate
for the Applicant

Shri J.G.Sawant
Advocate
for the Respondents

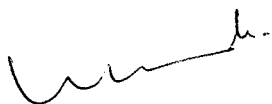
ORAL JUDGEMENT

Dated: 18.2.1994

(PER: M.S.Deshpande, Vice Chairman)

The applicant was appointed by the letter dated 10.10.1990 (Annexure-A-2) as Driver (Light) purely on temporary basis and the order also provided that he will be on probation for a period of two years and that his services will be terminated if his antecedents are found to be adverse. Without giving an opportunity to the applicant to show cause against the ^{intended action} ~~reasons~~ an order was passed on 8.2.1991 (Annexure- 'A-1') terminating his services under Rule 5 (i) of the CCS(Temporary Service) Rules, 1965 stating that he was being terminated because his antecedents were found to be adverse.

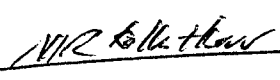
2. The learned counsel for the respondents stated that two criminal cases were pending against the applicant, one was Cr.No.244/89 U/s 498-C,306,114 IPC (Grave Crime) of Una Police Station, it was under pending Trial in

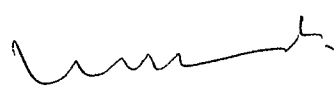




Session Court Junagadh, and second Cr.No. 181/87 U/s 66-B, 65-A, B1 of Prohibition Act, The latter ended in acquittal. It must be noted that though it was open to the respondents to terminate the applicant's appointment by passing an innocuous order of termination, he could not have been terminated by attaching a stigma to him, viz, that his antecedents were found to be adverse. If a stigma is attached, it is necessary to give an opportunity to the applicant to show cause against the intended action and the reasons ^{which} ~~are~~ prompted that action. Merely because it is an admitted fact that two cases were pending against him, it would not follow that the order was justified. What was contemplated was a pre-decisional enquiry consistent with natural justice and ~~non~~-post decisional investigation by us would be ~~un~~justified.

3. We, therefore, quash the order of termination dated 8.2.1991 (Annexure-'A-1') and direct the respondents to reinstate the applicant with back wages. Liberty to the respondents to proceed ~~a~~fresh against the applicant by holding an enquiry into the alleged antecedents which were adverse. This shall be done within two months from the date of communication of this order.


(M.R.KOLHATKAR)
MEMBER (A)


(M.S.DESHPANDE)
VICE CHAIRMAN

mrj.