

(4)

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

Original Application No: 978/92

Transfer Application No:  
xxxxxxxxxxxxxxxxxxxxxxxx

DATE OF DECISION 7.1.93

Canteen Stores Dept. Petitioner  
Employees Union

Mr. D V Gangal Advocate for the Petitioners

Versus

Union of India & Ors Respondent

Mr. P M Pradhan Advocate for the Respondent(s)


CORAM:

The Hon'ble Shri Justice S K Dhaon, Vice Chairman

The Hon'ble Shri Ms. Usha Savara, 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 ?

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Vice Chairman

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(S)

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

O A No. 978/92

1. Canteen Stores Department  
Employee's Union,  
'Khandelwal Bhawan'  
1st floor;  
166 Dr. D N Road, Bombay 1  
through Shri R P Saxena
2. Shri Anthony D'Souza  
Canteen Stores Department  
No.T/31 Ex.Ordnance Depot Complex  
Signal Hill Avenue; Sewri  
Bombay 33

Applicants

V/s

1. Union of India  
through General Manager  
Canteen Stores Department  
ADELPHI 119, M K Road  
Bombay 20
2. The General Manager  
(Disciplinary Authority)  
Canteen Stores Department  
ADELPHI 19, M K Road  
Bombay 20
3. Shri S K Sood  
(Inquiring Authority)  
Deputy General Manager (GS-A)  
Canteen Stores Department  
ADELPHI 19 M K Road  
Bombay 20

Respondents

Coram : Hon.Shri Justice S K Dhaon, Vice Chairman  
Hon. Ms. Usha Savara, Member (A)

APPEARANCE:

Mr. D V Gangal  
Counsel  
for the applicants

Mr. P M Pradhan  
Counsel  
for the respondents

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ORAL JUDGMENT:  
(PER: S K DHAON, Vice Chairman)

DATED: 7.1.1993

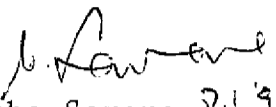
Disciplinary proceedings against applicant no.2 have been initiated. The matter is before the Inquiry Officer. The applicant made an application praying that he may be permitted to have the defence assistance of one Mr. R P Saxena, an Upper Division Clerk, in the Head Quarters of Canteen Stores Department Bombay. The applicant had been directed to nominate any other official other than Shri Saxena. He feels aggrieved, hence this application.


Exhibit-E to the application filed by the applicant appears to be an photostat copy of telex which shows that Shri Saxena is already representing some delinquent Government servant at Lucknow in some inquiry. Shri Pradhan, learned counsel for the respondents, states that apart from the inquiry at Lucknow, Shri Saxena is also representing some delinquent Government servant in some inquiry at Jabalpur. In para 4.22 of the application it is averred that Shri Saxena has no pending disciplinary case in hand in which he has to give assistance at present. Shri Gangal, who represents the applicants, states at the Bar that the inquiry which was being handled at Lucknow by Shri Saxena has come to an end.

3. If Shri Saxena is not handling any departmental proceedings of any other delinquent government servant, the authority concerned shall permit Shri Saxena to represent the applicant no.2. If, however, the officer concerned comes to a conclusion that Shri Saxena is even now representing any other delinquent government servant in some other departmental proceedings, he will be at liberty not to permit Shri Saxena to represent the applicant and thereafter the applicant shall nominate another defence assistant.

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With these directions this application is disposed of finally, but without any order as to costs.

  
( Usha Savara ) 7.1.93  
Member(A)

  
( S K Dhaon )  
Vice Chairman

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

*R.P.NO.19/93 in*  
O.A.NO.978/92

Canteen Stores Department  
Employees Union, Bombay & another

Applicants

V/s

Union of India & 2 ors.

Respondents

Coram: Hon.Shri Justice S K Dhaon, Vice Chairman  
Hon. Ms. Usha Savara, Member(A)

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

DATED: 2.3.1993

This is an application praying that the judgment and order passed by us on 7.1.1993 may be reviewed. During the pendency of the departmental proceedings the applicant approached this Tribunal with the grievance that the Inquiry Officer had declined the <sup>request of the</sup> applicant to have the defence assistance of Shri R P Saxena, <sup>1</sup> instead the Inquiry Officer had asked the applicant to nominate another officer. The reply filed on behalf of the respondents was that Shri Saxena was already rendering assistance to other delinquent Government servants in other cases. The respondents set out a case that if Shri R P Saxena is permitted to handle the defence of the applicant there is bound to be delay in the disciplinary proceedings. It was averred on behalf of the applicants that Shri Saxena was not handling any matter in any pending proceedings as defence assistant. We, therefore, passed the following order:

"If Shri Saxena is not handling any departmental proceedings of any other delinquent government servant, the authority concerned shall permit Shri Saxena to represent the applicant no.2. If, however, the officer concerned comes to a conclusion that Shri Saxena is even now representing any other delinquent government servant in some other departmental proceedings, he will be at liberty not to permit Shri Saxena to represent the applicant and thereafter the applicant shall nominate another defence assistant."

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
In this application it is asserted that the direction given by us that the Inquiry Officer shall permit Shri Saxena to render defence assistance to the applicant only if he was not rendering such an assistance to any other delinquent in any inquiry is not in consonance with Rule 14(A)(a) of the CCS(CCA) Rules 1965. Reliance has been placed on the note at the foot of the rule to the effect: "The Government servant shall not take the assistance of any other Government servant who has two pending disciplinary cases on hand in which he has to give assistance."

We have given the direction on a clear statement made by the counsel for the applicant at the Bar that on that date Shri Saxena was not handling any other inquiry in the sense <sup>that</sup> he was not rendering assistance as defence assistant in any other inquiry. We passed the order with a view to expediting the departmental proceedings pending against the applicant. We had not laid down as a matter of law that since Shri Saxena was handling another set of inquiry proceedings as defence assistant he could not under, any circumstance, be permitted to render assistance in the case of the applicant. We gave the direction keeping in view the facts and circumstances of the case. We do not find any error, much less an error apparent on the face of record, in our order.

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

This application is rejected.

  
(Usha Savara)  
Member(A)

  
(S.K. Dhaon)  
Vice Chairman