

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 1000/92

Transfer Application No.

Date of Decision 28.6.96

Bandulal Dinanath Une

Petitioner/s

Advocate for
the Petitioners

Versus

Union of India and others

Respondent/s

Shri B.K.Shetty.


Advocate for
the Respondents

CORAM :

Hon'ble Shri. B.S. Hegde, Member (J)

Hon'ble Shri. P.P. Srivastava, Member(A)

- (1) To be referred to the Reporter or not ?
- (2) Whether it needs to be circulated to other Benches of the Tribunal ?


(B.S. Hegde)
Member(J)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, 'GULESTAN' BUILDING No. 6
PRESOOT ROAD, BOMBAY:1

Original Application No. 1000/92

C 28th THE day of June 1996

CORAM: Hon'ble Shri B.S. Hegde, Member (J)

Hon'ble Shri P.P. Srivastava, Member (A)

Bandulal Dinanath Une

Applicant.

V/s.

Union of India represented
by The Brigadier,
Armed Service Corps
(Disciplinary Authority)
Headquarters, Southern Command
Pune.

Colonel, Commanding Officer
Sena Seva Corps Abhilekh,
(Yantrik Parivahan)
Armed Service Corps (Records (NT))
Bangalore.

Respondents.

By advocate Shri R.K. Shetty.

ORDER

¶ Per Shri B.S. Hegde, Member (J) ¶

Though the notice was served neither the applicant nor his advocate is present when the matter has listed for preemptory hearing. We have taken up the matter and considered the case on merits and directed the respondents to go through the pleadings. Accordingly Shri Shetty went through the pleadings.

2. The only prayer made in this O.A. is that the impugned order dated 15.12.89 passed by Colonel Commanding Officer with reference to refusal of pensionary benefit to the applicant (Exhibit b) dated 19.1.82 wherein the applicant has been dismissed from service under Rule 19(1) of the CCS(CCA) on the basis of conviction of the criminal Court be quashed and set aside.

3. The brief facts of the case succinctly narrated by the respondents in the reply stating that since the applicant found guilty under Section 304 Para II read with Section 34 of the Indian Penal Code by the Additional Session Judge, Aurangabad of the charges levelled against him vide judgement dated 23.10.81. Against which the applicant preferred an appeal to the High Court of Judicature of Bombay at Aurangabad, who after considering the appeal delivered the judgement on 13.6.83, partly allowing the appeal of the applicant and found him guilty under Section 223 read with Section 34 of the Indian Penal Code in lieu Section 304 Para II read with Section 34 of the Indian Penal Code. Thereby the conviction of the applicant has not been quashed though minimised. Thereafter the applicant filed mercy petition in the year 1984 praying for reinstatement on humanitarian ground, which was rejected by the respondents.


4. In the light of the above the respondents counsel raised the plea of limitation and states that the O.A, is required to be dismissed on the point of limitation. Since the cause of action arose in the year 1982 which admittedly 3 years prior to the Constitution of the Tribunal i.e. 1.11.85. He draws our attention to the decision of the Tribunal in V.K. Mehra 's case it is held that the Administrative Tribunals Act 1985 does not vest any power or Authority in CAT to take cognizance of a grievance arising out of an order passed prior to 1.11.1982. He also contended that the quantum of punishment it is not open to the Tribunal to re-appraise the case, it is left to the Competent Authority with

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which the Tribunal should not interfere, provided there is some evidence to find the employees guilty. In the instant case both the Additional Sessions Judge, Aurangabad and the High Court of Judicature of Bombay at Aurangabad found the applicant guilty of criminal charges. There is overwhelming evidence on record. Therefore the Tribunal cannot interfere with the finding of the order, whether they are arbitrary. In the circumstances even on merits the applicant's prayer of reinstatement is not warranted, the same is required to be dismissed.

5. For the reasons stated above, after considering the pleadings of the parties, we are of the view that the applicant has not made out any case for our interference in modifying the order passed by the competent Court, referred to above. Accordingly the O.A. is dismissed. No order as to costs.


(P.P. Srivastava)
Member (A)


(B.S. Hegde)
Member (J)

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