CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

(3)

Original Application Nos 1241/92, 1243/92, 1242/92, 1246/92, 1247/92, 1248/92, 1270/92, 1298/92, 19/93 and 37/93.

~~Transfer Application Nos~~

DATE OF DECISION 12.4.1993.

Shri P.S.Bhogale & Ors. ---------- 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 Shri Justice M.S.Deshpande, Vice-Chairman,

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

1. Whether Reporters of local papers may be allowed to see the Judgement ? Yes
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 ?

(M.S.DESHPANDE)
VICE-CHAIRMAN.

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
BOMBAY BENCH, BOMBAY.

1. Original Application No.1241/92.

P.S.Bhogale. .... Applicant.

2. Original Application No.1243/92.

P.S.Pawaskar. .... Applicant.

3. Original Application No.1242/92.

A.V.Waingankar. .... Applicant.

4. Original Application No.1246/92.

P.M.Thaoabuta. .... Applicant.

5. Original Application No.1247/92.

L.R.Tupare. .... Applicant.

6. Original Application No.1248/92. ..

R.K.Singh. .... Applicant.

7. Original Application No.1270/92.

K.Bodanna. .... Applicant.

8. Original Application No.1298/92.

R.S.Patil. .... Applicant.

9. Original Application No.19/93.

L.G.Dhanawade. .... Applicant.

10. Original Application No.37/93.

G.G.Sonavane. .... Applicant.

V/s.

Union of India & Ors. .... Respondents.

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

Appearances:-

Applicants by Shri D.V.Gangal.
Respondents by Shri V.S.Masurkar.

Oral Judgment:-

(Per Shri M.S.Deshpande, Vice-Chairman) Dated: 12.4.1993.

Heard counsels for the parties. The facts of Original Application No.1241/92 are identical with the facts of O.A. No.1243, O.A. No.1242, O.A. No.1246,

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O.A. No.1247, O.A. No.1248, O.A. No.1270, O.A. No.1298, O.A. No.19/93 and O.A. No.37/93. The applicant was removed from service by order dt. 23.5.1988. The appeal from that order failed and so did the revision which was dismissed by the order dt. 6.8.1990. The applicant then approached this Tribunal ~~which passed an order on 14.8.91 and it was decided~~ and the case was decided by passing the following order:

> "In the result the applications are allowed and the order of the disciplinary authority and appellate authority are quashed and set aside. We would clarify that this decision may not preclude the disciplinary authority from reviving the proceedings and continuing with it in accordance with law from the stage of supply of the Enquiry report. There will be no order as to costs."

2. The Respondents placed the applicant on suppension again and this order came to be challenged before this Tribunal which by the order dt. 17.6.1992 came to be decided in the following terms:

> "We are not inclined to go into other grievance raised in this application. We, however, make it clear that it will be open to the applicants to raise the other grievance, if possible under law, if and when a final order is passed by the disciplinary authority against the applicants.
>
> The application succeeds and is allowed. The impugned order of suspension dated 6.8.1992 is quashed.

3. As a result of the inquiry initiated afresh, an order removing the applicant was passed on 15.10.1992. No appeal has been filed against this order so far. The applicant, however, filed a Review Application dt.1.10.1992 against the show cause notice sent to the applicant and was addressed to the President. Several contentions were raised in the representation, but no order has yet been passed by the President on that Review Application.

4. The prayers made in this application include a declaration that the President should decide the Review Application of the applicant dt. 3.10.1992 which in terms refers to the application dt.1.10.1992 to which we have referred above, a declaration that if the Review Application is decided by the President, the 4th Respondent should

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not be allowed to pass any orders in respect of disciplinary proceedings and not to give effect to the order of removal if one is issued for reinstatement of the applicant with full back wages with continuity of service or any other relief appropriate in the circumstances.

5. The submission by Shri Masurkar, learned counsel for the respondents was that there was no order on which the Review Application dt. 1.10.1992 could be made to the President under Rule 29A of the CCS(CCA) Rules because a Review Application can be only for review of any order passed under the rules and issuing the show cause notice would not be an order of this discription. It is for the President to consider whether the application could be entertained and what relief can be granted and we would not like to say anything on that at this stage except that the President should decide the Review Application within a period of six months from today.

6. Most of the other prayers made in this application would have to abide by the order which may be passed by the President.

7. With regard to the submission that since the suspension order was quashed by this Tribunal and therefore the applicant was entitled to reinstatement, we are clear that filing an O.A. would not be the remedy which would be available to the applicant and he will have to choose his remedy elsewhere. Shri Gangal referred us to H.C.Puttaswamy V/s. Chief Justice of Karnataka High Court (1992(19)ATC page 292) but the observations by the Supreme Court came to be made there on a different set of facts and can have no application to the facts which are before us.

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8. In the result, the only direction that we need make in this case is to ask the President to decide the Review Application dt. 1.10.1992 within a period of six months from to day. Liberty to the applicants otherwise to pursue the issue regarding the reinstatement as a ~~sequent~~ sequel to the order of the Tribunal dt. 17.6.1992. With these directions ~~xxxxxx~~ all the original applications are disposed of.

(M.Y.PRIOLKAR)
MEMBER(A)

(M.S.DESHPANDE)
VICE-CHAIRMAN

B.