

(3)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH
(CAMP: NAGPUR)

Original Application No: 1359/92

Transfer Application No:

DATE OF DECISION: 24.4.95

Bhuwanlal Premdas Ramtake Petitioner

Shri P.C. Marakwar Advocate for the Petitioners

Versus

The Accountant General II (A & E)
Maharashtra, Nagpur and Arr. Respondent

Shri R. Darda. Advocate for the Respondent(s)

CORAM :

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

The 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?

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(M.S. Deshpande)
Vice Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH
CAMP AT NAGPUR

Original Application No. 1359/92

Bhuwanlal Premdas Ramtake

... Applicant.

V/s.

The Accountant General II (A & E)
Maharashtra, Nagpur.

The Deputy Accountant General
(Administration)
Office of the Accountant General
II (A & E) Maharashtra
Nagpur.

... Respondents.

CORAM: Hon'ble Shri Justice M.S. Deshpande, Vice Chairman
Hon'ble Shri P.P. Srivastava, Member (A)

Appearance:

Shri P.C. Marpakwar, counsel
for the applicant.

Shri R. Darda, counsel
for the respondents.

ORAL JUDGEMENT

Dated: 24.4.95

(Per Shri M.S. Deshpande, Vice Chairman)

By this application the applicant challenges the departmental inquiry initiated against him based on the charge sheet dated 30.8.88, the charge being that the applicant when asked to reach the report regarding checking of G.P.F. slips of Fund XVI Section to Internal Audit Section located in the new building, which was of a very urgent nature as the GPF Accounts slips for the year 1987 - 88 were to be issued on or before 31.8.88 and before issuing, checking of the above report by Internal Audit Section was a pre-requisite, the applicant refused to take the report, as directed by Accounts Officer to Internal Audit Section. He threw the report on the table of the Accounts Officer and told him to take it personally if he is that much interested. The Accounts Officer made

alternate arrangement to send the report to Internal Audit Section through Clerk of Fund XVI Section.

The applicant then went to the Accounts Officer's room and abused the Accounts Officer at the highest pitch of his voice in most unparliamentary language making vulgar gestures and thus created a scene.

The above behaviour was brought to the notice of the Group Officer by the Accounts Officer on 31.8.88.

2. The enquiry against the applicant proceeded. The proceedings were held on 9.6.89, 23.6.89, 29.6.89, 4.7.89, 13.7.89 and 25.7.89. The applicant denied the charges but did not nominate any defence assistant and refused to cross examine the witness on the plea that the two applications which the applicant had made to the disciplinary authority had not been decided by the Disciplinary Authority. The Disciplinary authority imposed punishment of withholding of increment for 2 years without cumulative effect. The applicant preferred an appeal and the appeal was dismissed by the Appellate Authority. The applicant approached this Tribunal and this Tribunal directed in O.A. 442/91 decided on 9.7.91 that the Appellate Authority should decide the appeal afresh. The appeal was decided on 30.7.92. The applicant has again approached this Tribunal by questioning the order passed against him.

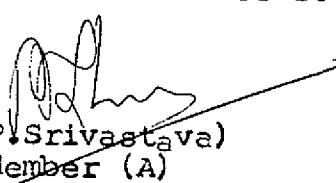
3. The learned counsel for the applicant urged that the applicant was not acquainted with English language and the proceedings were recorded in English and Marathi translation was not furnished to him and secondly copies of the material documents were not supplied to him.

4. The learned counsel for the respondents urged that it was obligatory under the Rules to supply vernacular copies of the proceedings when demanded. It appears that when a request was made by the applicant he was supplied the Marathi transalation of the proceedings of 29.6.89 which was received by him on 3.7.89. The applicant did not inform the Inquiry officer that he did not know English but only stated that the proceedings were recorded in a language unknown to him. The Appellate Authority has pointed out in his order that the applicant had failed to submit that the language was not known to him at the time of inquiry. The learned counsel for the respondents referred us to two documents dated 13.7.89 and 25.7.89 which were in Marathi but none of these documents show that the applicant was not acquainted with English language. The written statement filed by the respondents shows that copies of certain documents were given to the applicant after being translated in Marathi whenever such requests were made. The applicant made such a request on 29.6.89 and he was supplied the Marathi translation which he received on 3.7.89. It was urged by the learned counsel for the applicant that the Principles of Natural Justice were violated by not giwing him Marathi or Hindi copies of the documents. We however find these were furnished to him when demanded.

5. The next objection against the enquiry was that the applicant had asked for copy of the complaint made by Shri C.G. Bhalerao on the basis of which the enquiry was initiated. This document was not supplied to him on the plea that the department had not relied on that documents and

it was not mentioned in the list of documents furnished with the chargesheet. It is however clear from the Annexure II page 2 that the applicant's behaviour was brought to the notice of the Group Officer on 31.8.88. It was clear that a complaint was made by Shri Bhalerao and on that basis the enquiry was initiated. ~~That~~ was a material document with reference to which the applicant was entitled to cross examine Shri Bhalerao. Not furnishing a document of vital importance would therefore violate the Principles of Natural Justice. On this ground alone the enquiry shall have to be set aside.

6. In the result we set aside the order passed by the Disciplinary Authority and Appellate Authority and direct the Enquiry Officer to re-call Bhalerao for further cross examination after furnishing a copy of the complaint made by Shri Bhalerao to the applicant. After recording the evidence of Bhalerao and permitting the applicant to cross examine him, the Enquiry Officer may permit the applicant to examine ~~any~~ additional witnesses in his defence. The Enquiry Officer should resubmit his report to the Disciplinary Authority after completing the enquiry as per rules. The Disciplinary Authority after getting the fresh report from the Enquiry Officer shall pass appropriate orders in the disciplinary proceedings. The applicant will be entitled to challenge the order of the Disciplinary Authority by way of appeal as provided under the Rules. With these directions this O.A. is disposed of. No order as to costs.


(P.P. Srivastava)
Member (A)


(M.S. Deshpande)
Vice Chairman