

(3)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH
CIRCUIT SITTING AT NAGPUR.

O.A.NO. 198/92

199

TR.A.NO.

DATE OF DECISION 22.4.1994

Shri D.R.Tiwari

Applicant(s)

Versus

Chairman Ordnance Factory Board & Anr.

Respondent(s)

1. Whether it be referred to the Reporter or not ? NO
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? NO

M.S.Deshpande

MEMBER

M.S.Deshpande

VICE CHAIRMAN

mbm:

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

CAMP : NAGPUR

(6)

OA.NO. 198/92

Shri Dharamnath Rampukar Tiwari ... Applicant
V/S.

Chairman Ordnance Factory Board,
Calcutta & Anr. ... Respondents

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

Appearance

Shri N.Y.Phadnis
Advocate
for the Applicant
Shri R.P.Darda
Advocate
for the Respondents

ORAL JUDGEMENT

Dated: 22.4.1994

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

The applicant challenges the penalty imposed upon him in a departmental enquiry for suppressing the fact of ^{his} arrest by the police. The penalty imposed was of reduction of pay by two stages.

2. The applicant was appointed as a labour on 7.2.1976 and came to be promoted as Lower Division Clerk in 1978. In respect of an incident on 11.10.1987 of his arrest by the police and his concealing that fact a charge-sheet was given to him on 28.9.1989. The Enquiry Officer exonerated the applicant but the Disciplinary Authority disagreed with the findings of the Enquiry Officer found the applicant to be guilty of suppressing the fact of arrest and imposed the penalty as stated above.

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3. The ground raised by Shri Phadnis is that before imposing the penalty no opportunity was given to the applicant to show cause as to why the finding should be set aside and the penalty imposed.

4. Shri Darda fairly concedes that the order passed by the Disciplinary Authority will suffer because of the failure to give an opportunity to the applicant to show cause against the intended action by the Disciplinary Authority. It is a well settled legal proposition that before imposing a penalty a delinquent should be given an opportunity to show cause against the intended action. We find that this is not done in the present case. The action of disciplinary authority cannot be supported.

5. Shri Darda urges that the respondents should be allowed to hold an enquiry *de novo*. In fact, the charge seems to us to be *trivial* and in respect of an incident as old as of the year 1987 and it would not be equitable to allow *the respondents* to initiate enquiry 7 years after that charge. We, therefore, decline the liberty to the respondents to hold an enquiry *de novo*.

6. The impugned orders are, therefore, quashed and the respondents are directed to refund the amount which may have been deducted by the respondents and restore ^{to} him all the benefits of which he was deprived.

M.R.Kolhatkar
(M.R.KOLHATKAR)
MEMBER (A)

M.S.Deshpande
(M.S.DESHPANDE)
VICE CHAIRMAN