

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, "GULESTAN" BUILDING No.6
PRESCOT ROAD; BOMBAY-1

O.A. Nos.427 to 447 of 1992

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|----|---------------------|------------------------|
| 1. | Shri A V Waingankar | Applicant in OA 427/92 |
| 2. | Shri P G Mhatre | Applicant in OA 428/92 |
| 3. | Shri P S Pawaskar | Applicant in OA 429/92 |
| 4. | Shri A D Tawde | Applicant in OA 430/92 |
| 5. | Shri V B Nagare | Applicant in OA 431/92 |
| 6. | Shri A R Pingale | Applicant in OA 432/92 |
| 7. | Shri A H Kale | Applicant in OA 433/92 |
| 8. | Shri V G Kadam | Applicant in OA 434/92 |
| 9. | Shri P S Bhogale | Applicant in OA 435/92 |
| 10 | Shri R K Singh | Applicant in OA 436/92 |
| 11 | Shri N B Khobrekar | Applicant in OA 437/92 |
| 12 | Shri P M Thapania | Applicant in OA 438/92 |
| 13 | Shri V B Hadawale | Applicant in OA 439/92 |
| 14 | Shri L G Dhanawade | Applicant in OA 440/92 |
| 15 | Shri K. Bodanna | Applicant in OA 441/92 |
| 16 | Shri B V Bhosle | Applicant in OA 442/92 |
| 17 | Shri J P Mane | Applicant in OA 443/92 |
| 18 | Shri G G Sonawane | Applicant in OA 444/92 |
| 19 | Shri L R Topare | Applicant in OA 445/92 |
| 20 | Shri K G Pokharkar | Applicant in OA 446/92 |
| 21 | Shri S V Kulkarni | Applicant in OA 447/92 |

V/s.

1. Union of India through
Chief of Naval Staff
Naval Head Quarters,
South Block, New Delhi
2. Flag Officer Commanding
in Chief, Western Naval
Command, Fort, Bombay-23.
3. Admiral Superintendent
Naval Dockyard
Bombay-23.

Respondents in all the
above 21 OAs.

Coram: Hon. Shri Justice S K Dhaon, Vice Chairman
Hon. Shri M Y Priolkar, Member (A)

APPEARANCE:

Mr. D V Gangal, Counsel for applicants.
Mr. V S Masurkar, Counsel for respondents.

ORAL JUDGMENT:

DATED: 17-06-1992

(PER: S K Dhaon, Vice Chairman)

Disciplinary proceedings were initiated against the applicants. They were punished. They came to this Tribunal. This Tribunal took a view that the inquiry proceedings were vitiated as the Inquiry Report of the Inquiry Officer was not furnished to the applicant. This Tribunal, however, left it free to the department to continue with the inquiry from the stage of furnishing of the report of the Inquiry Officer.

An order has been passed on ^{19.11.91}~~6.3.1992~~ by the respondents purporting to suspend the petitioners from service in exercise of powers of sub-rule 4 of Rule 10 of CCS (CCA) Rules, 1965 (hereinafter referred as the Rules). This order is being challenged in the present application.

Undisputably, the applicants had not been placed under suspension at any stage during the course of disciplinary proceedings. A combined reading of sub-rules 3 and 4 of Rule 10 of the Rules indicate that the ^{situation contemplated} evocation created in sub-rule 4 can come into existence only if a delinquent had been placed under suspension during ~~the course~~, either before or during ~~the course~~, of disciplinary proceedings. That not being the position in the present cases the order of suspension is not sustainable.

Written statement has been filed on behalf of the respondents and we have heard the counsel for the respondents.

We are not inclined to go into other grievances raised in this application. We, however, make it clear that it ^{will be} open for the applicants to raise the other

grievance, if possible under law, ~~as~~ 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 ~~6.3.1992~~^{18.11.91} is quashed.

Considered

(M. Y. PRIOLKAR)
M(A)

(S. K. DHAON)
V.C.

12.10.92

Mr. D V Gangal, Counsel for the applicant.
Mr. V S Masurkar, Counsel for the respondents.
M.P. No. 807/92 is for correcting certain typographical errors.

M.P. allowed. Necessary corrections implemented in our order dated 17.6.92

(M Y Priolkar)
M(A)

(S K Dhaon)
V.C.

17/6/92
Order/Judgment despatched
to Appellant/Respondent(s)
on 2-7-92

R.P.No 163/92

O.A.No. 436/92

Date:
19-10-1992

Mr.V.S.Masurkar for Review

Petitioner(Original respondent)

Mr.D.V.Gangal Review respondent

(Original applicant)

Let notice be issued to the
original applicant under RP

A.D.

Adjourned to 21-12-1992

(M.Y.PRIOLKAR)
M(A)

(S.K.DHAON)
VC

Judgement dt:- 17-6-92
was served on applicant
dt:- Nil.

17/10/92

M.P.No. 807/92 for
correcting clerical
mistake, filed on
12-10-92,

Dispen
28/9

R.P. 163/92 for
order by ~~clerk~~
Circulation

Kell
15/10

Notice is issued to
applicant on 23.1

11/10
Notice dt. 23/10/92
Served on Applnt./Resp.
on dt. Nil

108
18/11/92

Recd reply to RP 163/92
from applicant on 17/12/1992

108
18/12/1992

Original order in O.A.427/92.

OA Nos. 427, 428, 429, 430, 431, 432, 433, 434, 435,
436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446,
447, 747, 750, 751, 777, 775, 776, 813 and 762 of 1992.

Tribunal's order

Dated : 21.12.92

Mr.V.S. Masurkar for the Review
Petitioners (Original Respondents) and
Mr.D.V. Gangal for the Review Respondents
(Original Applicants).

All these Review Petitions are to be
heard by the same Bench which had heard the
Original Applications, namely, Hon'ble V.C. and
Administrative Member Mr.Priolkar. It may be
placed before the same Bench on 4.1.1993.

A copy of this order be kept in all
the above mentioned cases.

Sd/-
(V.D. Deshmukh)
Member (J)

Sd/-
(M.Y. Priolkar)
Member (A).

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
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V/s.

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| 1. | Union of India through
Chief of Naval Staff
Naval Head Quarters;
South Block, New Delhi | |
| 2. | Flag Officer Commanding
in Chief; Western Naval
Command; Fort; Bombay-23 | |
| 3. | Admiral Superintendent
Naval Dockyard
Bombay-23. | Respondents in all the
above 21 OAs. |

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