

V

~~CENTRAL ADMINISTRATIVE TRIBUNAL~~
~~BOMBAY BENCH~~

Original applications No 391/92 and 685/92

Shri V.S. Solanki

... Applicant.

V/s.

Union of India through
Secretary, Min, of Law
& Justice, New Delhi.

President, Income Tax
Appellate Tribunal
Ayakar Bhavan, Bombay.

The Registrar,
Income Tax Appellate Tribunal
Bombay.

... Respondents

CORAM: Hon'ble Shri Justice S.K. Dhaon, Vice Chairman.

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

Appearance:

Shri S.Pillai, counsel for
the applicant.

Shri V.S.Masurkar, counsel
for the respondents.

ORAL JUDGEMENT

Dated: 6.3.92

{ Per Shri S.K. Dhaon, Vice Chairman }

The applicant was removed from service on 14.2.89 as Driver of staff car, OA 685/92 is directed against the order of removal. While in service, the applicant was allotted an official accommodation. He was asked to vacate the same, OA 391/92 is directed against the order, whereby he is required to vacate the quarter. Both the applications are therefore inter-related. They have been heard together and they are being disposed of by a common order.

The applicant preferred an appeal against the order dated 14.2.89 passed by the punishing authority. During the pendency of the appeal, he made an application stating therein that he did not wish to prosecute the same. Thereafter he was given a fresh employment on temporary basis. He continues to hold that employment even now

(3) : 2 :

It is an admitted position that the punishing authority did not furnish to the applicant a copy of the report of Enquiry Officer before passing the order of punishment, namely removal from service. This defect is fatal as it goes to the very root of the matter. Nothing will turn on the fact that the applicant withdrew his appeal. Any action of a delinquent servant after passing of the order of punishment, will not infuse life into an order which was void ab-initio. In view of the decision of the Supreme Court in Mohmad Ramzan Khan's case, the punishing authority passed the order of punishment in violation of principles of natural justice. Such an order, therefore, was void. The impugned order, therefore, is not sustainable.

The applications succeeds ^{and} allowed. The order of punishment is quashed. However, we make it clear that it will be open to the punishing authority to re-initiate the disciplinary proceedings against the applicant from the stage of the handing over of a copy of the report of the Enquiry Officer to him. Since the order of dismissal is being quashed, the question of the applicant being evicted from the accommodation does not arise as he will hereafter be deemed in service. We, therefore, direct the respondents not to evict the applicant from the accommodation till the passing of the final order in the disciplinary proceedings, if the officer concerned decides to re-initiate the same.

With these directions these applications are disposed of finally. There shall be no order as to costs.