

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 185/93

Date of Decision: 21.6.99

Narayan Shankar Nadkarni

Applicant.

Shri A.I.Bhatkar.

Advocate for
Applicant.

Versus

Union of India & Anr.

Respondent(s)

Shri V.S.Masurkar.

Advocate for
Respondent(s)

CORAM:

Hon'ble Shri. Justice K.M.Agarwal, Chairman.

Hon'ble Shri. R.K.Ahooja, Member(A).

(1) To be referred to the Reporter or not?

(2) Whether it needs to be circulated to
other Benches of the Tribunal?

KM
(K.M.AGARWAL)
CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.185/93.

Monday, this the 21st day of June, 1999.
Hon'ble Mr. Justice K.M. Agarwal, Chairman
Narayan Shankar Nadkarnti, Hon'ble Mr. R.K. Aahooja, Member(A)
2/14, Atmaram Hira,
Bhoir Chawl, Retibunder Road,
Opp. Rokde Niwas,
Dombivali (West) Dist. Thane.
(By Advocate Shri A.I. Bhatkar) ... Applicant.

Vs.

1. The Admiral Superintendent,
S.B.Road, Lion Gate,
Naval Dockyard,
Bombay-400 023.
2. Union of India through
The Flag Officer Commanding-in-Chief,
Head Quarters, Western Naval Command,
Shahid Bhagat Singh Road,
Bombay - 400 001.
(By Advocate Shri V.S. Masurkar) ... Respondents.

: O R D E R :

(Per Justice Shri K.M. Agarwal, Chairman)

The applicant has made a prayer for quashing the order of removal passed by the Disciplinary Authority as also the Appellate Order confirming the same.

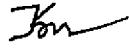
2. The applicant was in the employment of the Respondents since 1965. He remained absent from his duties from 26.5.1989. Treating the absence as unauthorised absence, the department decided to hold a Departmental Enquiry against him. Accordingly, charge sheet dt. 6.2.1990 was sent to him to his residence. An ex-parte enquiry was thereafter held, witnesses were examined and enquiry report submitted, holding that the applicant was guilty of the mis-conduct alleged. It appears that the order of removal was served on the applicant and thereafter he filed a mercy appeal before the Appellate Authority, requesting it to alter the punishment of removal to one of compulsory retirement. The appeal was dismissed and therefore, this OA has been filed for the aforesaid reliefs.

3. After hearing the learned counsel for the parties and perusing the records, we feel that notices on enquiry report etc. were tried to be served on the applicant by Registered Post, but they were refused to be accepted. Virtually by making a prayer for altering the penalty from removal to compulsory retirement, the applicant conceded the allegation of mis-conduct alleged against him. The original records of enquiry were produced before us. We find from the proceedings and findings of the Enquiry Officer that Prosecution Witnesses were examined and documents exhibited to show that the applicant remained on unauthorised absence from the date alleged. Accordingly, the instructions contained under Rule 63 and 64 of P & T Manual, Vol.III reproduced at Page No.46 under Rule 14 of CCS (CCA)Rules (Swamys Compilation) were fully complied with during the enquiry proceedings. Under the circumstances, we find no merit in this OA.

4. In the result, this OA fails and it is hereby dismissed, but without any order as to costs.


(R.K. AHOOJA)

MEMBER(A)


(K.M. AGARWAL)

CHAIRMAN.