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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No.: 400/93

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DATE OF DECISION 8.10.1993

Shri Arun Kamti Dutta ----- Petitioner

Shri G.K.Masand ----- Advocate for the Petitioners

Versus

Union of India & Anr. ----- Respondent

Shri R.C.Kotiankar ----- Advocate for the Respondent(s)

COURT:

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

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

1. whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?


(M.S.DESHPANDE)

VICE CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

(3)

DA.NO. 400/93

Shri Arun Kamti Dutta

... Applicant

v/s.

Union of India & Anr.

... Respondents

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

Appearance

Shri G.K.Masand
Advocate
for the Applicant

Shri R.C.Kotiankar
Advocate
for the Respondents

ORAL JUDGEMENT

Dated: 8.10.1993

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

Heard counsel for the parties. The challenge to the enquiry is on the ground that though the incident was of 1986, the enquiry was initiated in 1991 and on account of change of enquiry officer and the Presenting Officer, no head-way could be made until 1992. The charge was about misappropriation of about Rs.11,000/- by the applicant who was an Assistant Engineer is alleged modus operandi being not employing the casual labourers and pocketing the money. We do not think that in the circumstances of the case the delay is such as to render holding of the enquiry unequitable. The delay does not appear to us to be unconscionable. We, ^{are} therefore, inclined not to grant that prayer, but the alternate prayer which has been made by Shri Masand that enquiry should be directed to be completed expeditiously. The other ground raised is that the department is represented by a C.B.I. Inspector who is a legally trained person while that opportunity is being denied

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(M)

to the applicant. Shri Masand relies on a decision of the Bombay High Court in the case of Goverdhanlal Madanmal Singhvi vs. Union of India, 1984 Mh.L.J. 461 by S.P.Bharucha, J. as he was then, on identical circumstances. It was observed that the officer of the C.B.I. who was a trained ^{and} experienced in criminal procedure was a legally trained person. Shri Kotiankar relies on a decision of Supreme Court in State of Rajasthan, Jaipur vs. Shri S.K.Dutt Sharma 1993(1) Administrative Tribunal Judgments 565, where in para 5 it was observed that the Presenting Officer was neither a legal practitioner nor a Police Prosecutor or Prosecuting Inspector. However, that could not make any difference in this case because it is apparent that the Presenting Officer could not be said to be but a legally trained person.

2. We, therefore, direct the respondents to complete the enquiry as far as possible within six months and permit the applicant to take the assistance of a lawyer in the enquiry.

3. With these directions the application is disposed of.


(M.Y.PRIOLKAR)
MEMBER (A)


(M.S.DESHPANDE)
VICE CHAIRMAN

mrj.