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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 871/93

~~Transfer Application No:~~

DATE OF DECISION 10.9.93

Shri Anwar Mohamed Khan Petitioner

Shri L.M. Nerlekar Advocate for the Petitioners

Versus

Union of India through Respondent
Divisional Railway Manager
Central Railway, Bombay VT.

Advocate for the Respondent(s)

CORAM:

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

The Hon'ble ~~Shri~~ Smt. Lekshmi Swaminathan, Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement ? *MP*
 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 ?
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(M.Y.Priolkar)
Member(A)

(9)
CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 871/93

Shri Anwar Mohemed Khan
V/s.

... Applicant.

Union of India through
Divisional Railway Manager,
Central Railway
Bombay VT.

... Respondent.

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

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Appearance:

Shri L.M. Nerlekar, counsel
for the applicant.

ORAL JUDGEMENT

Dated: 10.9.93

(1) Per Shri M.Y.Priolkar, Member (A) :

The relief prayed for in this case is not to proceed ~~against~~ the applicant in pursuance of the respondent's notice dated 2.7.93 pending hearing and final disposal of the application by this Tribunal.

The applicant had already approached us earlier in OA 500/89 and by our judgement and order dated 9.10.91 we have set aside the order of termination passed by the disciplinary authority on the ground of non supply of report of the enquiry Officer before imposing the panalty of removal. Against our said order, an SLP was filed by the respondents before the Supreme Court and by its order dated 29.9.92 the Supreme Court has inter alia directed the Union of India to proceed expeditiously with further enquiry as indicated in our earlier judgement, in which we had observed that our order will not preclude the disciplinary authority from going ahead with the enquiry beyond the stage of giving the Enquiry Officer's report to the applicant.

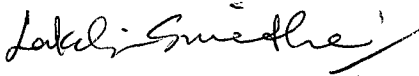
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The prayer in the present application is, therefore, in effect, for a direction against the specific order of the Supreme Court cited above which says that the Union of India should proceed expeditiously with further enquiry as indicated in the ^{Tribunal's} judgement. The learned counsel for the applicant, however, relied on a subsequent Supreme Court order dated 23.11.1992 in another case namely Union of India V/s. Kailashchand Chandigilal Sharma and Ors. (Civil Appeal No. 4963 -67 of 1992) in which the Supreme Court has observed as under:

" We are informed that pursuant to the decision of the Tribunal, some of the respondents have been reinstated in service and in some cases the proceedings beginning from the furnishing of the report have already been started. The respondents are at liberty to approach the Tribunal, in the circumstances of the case, for an order restraining the appellants from removing or suspending them from service. In the meanwhile, however, the disciplinary proceedings which have been initiated from the stage of the supply of the report will not proceed further. As and when applications are made on behalf of the respondents, the Tribunal will decide them according to law. The appellants will maintain status quo with regard to those who have already been taken back in service for a period of three weeks from today. "

Evidently, this direction of the Supreme Court is in respect only of the petitioners ^{respondents} before the Supreme Court in that particular case and is not of general applicability to all similarly placed persons. In the case before us, there is a specific order of the Supreme Court which according to us cannot be considered to have been modified by the subsequent order in some other case on which reliance is placed

by the learned counsel for the applicant. We therefore, see no merit in the application. The application is rejected summarily. No order as to costs.


(Lakshmi Swaminathan)
Member (J)


(M.Y. Priolkar)
Member (A)

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