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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 1328/94

Transfer Application No:

DATE OF DECISION: 28.12.94

A. B. Mishra Petitioner

Shri G.S. Walia Advocate for the Petitioners

Versus

Union of India and others Respondent

Shri S.C. Dhawan Advocate for the Respondent(s)

CORAM :

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

The Hon'ble Shri M.R. Kolhatkar, Member (A)

1. To be referred to the Reporter or not? NO
2. Whether it needs to be circulated to other Benches of the Tribunal? NO

M.S. Deshpande
(M.S. Deshpande)
Vice Chairman.

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No.1328/94

A.B. Mishra

... Applicant.

V/s.

Union of India through
General Manager,
Central Railway
Bombay VT

Chief Works Manager,
Central Railway Workshop,
Parel, Bombay.

Shri N.S. Jagtap,
O.S. I,
Central Railway Loco
Workshop, Parel,
Bombay.

... Respondents.

CORAM: Hon'ble Shri Justice M.S. Deshpande, Vice Chairman
Hon'ble Shri M.R. Kolhatkar, Member (A)

Appearance:

Shri G.S. Walia, counsel
for the applicant.

Shri S.C. Dhawan, counsel
for the respondents.

ORAL JUDGEMENT

Dated: 28.12.94

¶ Per Shri M.S. Deshpande, Vice Chairman

The controversy raised in this application is about an incident of 5.11.93. The applicant had made an allegation that he had been assaulted by an artisan, Moses James, and the enquiry was initiated against him. Shri Moses had filed a complaint against the applicant on 11.3.94. Earlier, the applicant had also filed a criminal case against Shri Moses, which is pending.

2. The contention of the applicant is that on a belated complaint filed by Moses, an enquiry should not have been initiated against him, but we are not considering the merits or otherwise of the controversy

regarding the complaints of Moses, which as it is the disciplinary authority which has to consider whether an enquiry should be conducted or not, Since a criminal case is still pending, we do not think that the applicant will be put into any hardship as the department shall have to take action if the criminal case succeeds.

The material point raised by the applicant is that the applicant had made an application through his lawyer alleging bias against the Inquiry Officer because the Enquiry Officer had made certain allegations against him. The applicant sought a change of the Enquiry Officer on this ground and the request was rejected by the disciplinary authority. We will only direct the respondents to consider whether the Enquiry Officer should be changed in view of the allegations made by the applicant, so that at a belated stage the enquiry itself does not become infructuous. Such a decision should be taken within two months from the date of receipt of this order. With these directions, O.A. is disposed of.

MR Kolhatkar

(M.R. Kolhatkar)
Member (A)

MS
(M.S. Deshpande)
Vice Chairman

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