

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

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ORIGINAL APPLICATION NO: 67/95

Dated, this Tuesday the 7th of December 1999.

Shri S.K.Gonjare Applicant.

Shri.S.P.Kulkarni Advocate for the
Applicant.

VERSUS

Union of India & Anr Respondents.

Shri S.S.Karkera for Shri P.M.Pradhan Advocate for the
Respondents.

CORAM: HON'BLE SHRI B.N.BAHADUR, MEMBER(A)
HON'BLE SHRI S.L.JAIN, MEMBER(J)

- (i) To be referred to the Reporter or not? No
- (ii) Whether it needs to be circulated other Benches
of the Tribunal? No
- (iii) Library? No

B.N. Bahadur

(B.N. BAHADUR)
MEMBER(A)

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO; 67/95
DATED THE 7th DAY OF DECEMBER, 1999.

CORAM: HON'BLE SHRI B.N. BAHADUR, MEMBER(A).
HON'BLE SHRI S.L. JAIN, MEMBER(J)

Shri Shriram Krishnaji Gonjare,
Sub-Postmaster Bhigwan Railway Station
Post Office,
Residing at: S.P. Mis Quarters,
At P.O. Bhigwan,
District-Pune-413 105.

... Applicant.

By Advocate Shri S.P. Kulkarni.

v/s.
Union of India,
Through:
1. Superintendent of Post Offices,
Pune Mofussil Division,
Swargate, Pune-411 042.

2. Director of Postal Services,
Pune Region,
O/O. Postmaster General,
Pune Region,
Pune-411 001.

... Respondents.

By Advocate Shri S.S. Karkera for
Shri P.M. Pradhan.

(ORDER)

This is an application made by Shri Shriram Krishnaji Gonjare seeking the quashing of punishment order dated 30/3/93 and the Appellate Order dated 10/12/93, which rejected his appeal. The facts of the case as brought forth by the applicant, and relevant to the issues before us, are as below:-

2. The applicant entered postal service as clerk in January, 1966 and claims to be covered and eligible for higher scale after 26 years service under the scheme of Biennial Cadre Review (BCR) w.e.f. January, 1992. He was, however, not given this promotion in view of contemplated disciplinary proceedings and avers that since no action was pending against him, he had filed an OA No. 964/93.

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3. The applicant goes on to list (in para 4.3 of OA) the factual status of the four disciplinary cases initiated against him and the results thereof. The applicant avers that punishments in these enquiries were ordered to run in continuation, thus resulting in stretching the period of punishment to 6 1/2 years, which was unduly harsh and violative of the principles of natural justice. Applicant then goes on to describe in great detail the charges in the various departmental enquiries against him and how justice was denied to him. The relief sought however in the present OA are as described in para-1.

4. The respondents in the case have filed a reply statement. They have stated that, firstly the application is barred by limitation. They go on to say, further, that the applicant was not recommended for BCR promotion by the Departmental promotion committee(DPC) due to his record being unsatisfactory. However, the case of the applicant was under review for BCR promotion as per orders in OA-964/93. The reply statement also goes on to say that the contentions made by applicant in regard to other disciplinary proceedings are denied, and that no grievance can be made in the present OA in matters where separate cases are pending.

5. In regard to the present case, the respondents say that sufficient time was given to the applicant during the course of the enquiry submit his defence. They deny the allegation that only Shri Makhre is responsible for the incident which took place upto 18/4/81. It was the duty of the applicant to detect the irregularity committed by Shri Makhare in making the appointment

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of Shri Pawar. All other allegations made in the OA are also denied by the respondents. It is alleged that Shri Thite was appointed without observing appointment formalities, and that the applicant is trying to mislead the Tribunal. Similarly, no other cause which can be said to violate the principles of natural justice can be said to exist. The respondents thus pray for the dismissal of the application.

6. We have considered all papers in the case including Annexures filed. The original record in the shape of a file titled "Disciplinary Case of Shri S.K.Konjare, PA Bhigwan R.S." which was produced at the time of arguments by learned counsel for respondents has also been seen. We have carefully considered the arguments advanced by learned counsels on both sides.

7. The learned counsel for the applicant stated that he was resting his case only on one point, i.e. that though he demanded that an enquiry be conducted, this was not done. Learned counsel strenuously contended that relief should be provided on the basis of this argument, as had been done by this Bench in its Order, dated 22/7/1999, in OA-349/94. He, therefore, urged that on the same lines as ordered therein an enquiry should be ordered.

8. The learned counsel for the respondents contested the claim that an enquiry was asked for, and drew our attention to pages 29 to 32 and stated that no specific request had been made.

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9. In order to appreciate the point made and the decision given in OA-349/94, as heavily relied upon, We specifically called for the case file in this OA. We have gone through the orders carefully, In that case the order of the Appellate Authority has been set aside and the matter remanded back to Appellate Authority. The reason for this has been as follows:- It is observed in that case, that a specific request for enquiry was made in time by the applicant. The rule position as noted therein is that an enquiry in minor penalty proceedings shall be considered if asked for and an order allowing or rejecting it passed. The defect pointed out in that case is that inspite of a request, no decision was given. In that case it is also noted that this point was raised in Appeal, but not considered at all by Appellate Authority.

10. Now, in the present case before us there is assertion made at para-4.3 of OA by the applicant that an enquiry was asked for. There is an assertion in the reply statement at para-13 of Respondent that the applicant had never demanded an enquiry and that the charge sheet was issued under Section-16. In view of this position, we have tried to see through the papers in the case as also the original file produced before us. We find no evidence of such a request by the official. Nor was any attempt made to specifically bring up any paper to our notice which could show that a specific request for enquiry was made.

11. If we now consider the applicability of the point settled in OA-349/94, it is clear to us that the facts and circumstances on the basis of which relief was given in OA-349/94, are not present here. In fact, it is clear that the judgement in that

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case does not apply to the present case and hence the plea of the applicant for grant of relief relating to enquiry, on that basis, clearly fails.

12. There is no other argument brought up before us to grant any other relief, either. In consequence, this application fails and is hereby dismissed with no orders as to costs.

S.L. Jain
(S.L. JAIN)
MEMBER (J)
abp

B.N. Bahadur

(B.N. BAHADUR)
MEMBER (A) .. 07/12/99