

Matter came for hearing.
Taken in Sino a dia list.
on 23.11.1995.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH, BOMBAY

ORIGINAL APPLICATION NO. 194 OF 1995

Surendra Prasad

...

Applicant

V/s

Union of India & Ors.

...

Respondents

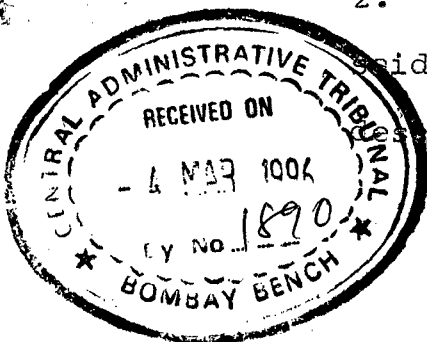
(Department of Family
Welfare Training &
Research Centre)

I, DR.S.D. Khaparde, Director

of Family Welfare Training & Research Centre, having
my office at 332, S.V.P. Road, Bombay - 400 004, do
say on solemn affirmation as follows :-

1. I have read a copy of the aforesaid Application.
I have perused all the relevant documents available
in my office in connection with the issues involved
in the present Application. I am accordingly conversant
with the facts and circumstances of the case and able
to depose to the same. I am filing this affidavit in
reply on behalf of the Respondents in reply to the
main Application.

2. Without prejudice to what is stated in the
said Application, I say and submit that the Application
deserves to be dismissed in limine and on costs as



the same discloses no cause of action which can be entertained by this Hon'ble Tribunal and/or the same is absolutely not maintainable and misconceived. What is stated hereinafter is without prejudice to the aforesaid submission.

3. With reference to paragraphs 1 to 3, 4.3 and 4.3(2), I crave leave to refer to the records maintained by the Department to ascertain the correctness of what is stated therein. I do not admit correctness of any statement/averment made therein which are not in conformity with the contents of the said records.

4. With reference to paragraph 4.1, I say that the Applicant was appointed as a S.W.I. with effect from 31.8.71.

5. With reference to paragraph 4.2(1), I say that in addition to item 1 to 3, the Applicant was required to do any other duties that may be assigned from time to time, which consists of -

- (1) Motivation of people attending the centre for different types of services for acceptance of F.P.
- (2) Interviewing the individuals so as to give guidance and counselling with a view to helping them to accept F.P.
- (3) Demonstration of contraceptive with a view to helping the individuals to accept F.P.

- (4) Giving talks to community groups on request.
- (5) Organisation of exhibitions and film shows in the community.
- (6) Population Education and Family Life Education programmes in Schools, Colleges for out of school groups.

6. With reference to paragraph 4.2(2), I deny the correctness of what is stated therein. I say that Intake Duty is not at all ministerial work in view of applicant's responsibilities as mentioned hereinabove.

7. With reference to paragraph 4.2(3), I deny the correctness of what is stated therein. I say that the correct facts are that the Applicant was allotted one room in Ground Floor, occupied by Shri H.A. Sontakke, S.W.I. who has been posted for duty at Deonar Centre w.e.f. 1.10.92, but the applicant was not occupying the room for best reasons known to him. Further there are no gathering of Group 'D' Staff in ground floor.

8. With reference to paragraph 4.3(1), I say that the correct facts are as follows :-

- (a) I say that the Applicant knows that one lady came to office left her child in ground floor and went up to first floor.
- (b) I further say that since the lady has not turned back, the applicant in his own anxiety went to first floor to find out the lady.

(c) I further say that the Applicant heard the commotion in first floor, and the lady was shouting and accusing in a very agitated way to Shri T.R. Bhogle, UDC.

(d) I therefore say that thus the applicant came to know that the commotion is something like a personal nature.

Ex. "1"

9. With reference to paragraph 4.3(2), I reiterate that the correct facts are what I have stated herein-above. I have annexed herewith and marked as Exhibit "1" a copy of the letter addressed to Director, F.W.T. & R.C. Bombay for perusal. As the applicant knows that commotion took place is of personal nature, this letter addressed to Director is mischievous designed deliberately to create trouble. In the past, the Applicant has never bothered to do such follow up. Even his entries in Intake cards are incomplete for which he has been warned verbally by the clinic doctors.

10. With reference to paragraph 4.3(3), I reiterate that the correct facts are what I have stated herein and deny the correctness of what is stated in the said paragraph which is contrary thereto.

11. With reference to paragraph 4.3(4), I say that a quarrel has taken place on 25.2.93 at about 3 P.M. between Shri S. Prasad and Shri T.R. Bhogle, Shri S. Prasad and Shri T.R. Bhogle both were served with Memorandum directing to explain why disciplinary action

should not be taken against them vide No.FW/PF/SP/92-93/1386 dated 3.3.93 and No. FW/PF/TRM/92-93/1387 dated 3.3.93, copies of which are annexed herewith and marked as Exhibits "2" and "3" respectively.

Ex. "2"

Ex. "3"

12. With reference to paragraphs 4.3(5), 4.3(6) and 4.3(7), I say that the Applicant has submitted his explanation on 9.3.93, a copy of which is annexed herewith and marked as Exhibit "4". However, Shri T.R. Bhogle has not submitted any explanation for the Memorandum. I further say that after careful consideration of the reply of the Applicant, the disciplinary authority concluded that both the officials, i.e. Shri S. Prasad & Shri T.R. Bhogle were guilty on the incident of 25.2.93. I therefore, say that accordingly, Shri S. Prasad and Shri T.R. Bhogle were warned vide Memorandum of 16.3.93 bearing No. PW/PF/SP/92-93/1453 and Memorandum of 16.3.93 bearing No. FW/PF/TRB/92-93/1452..Annexed herewith and marked Exhibits "5" and "6" are copies of the said Memoranda.

Ex. "4"

Ex. "5"

Ex. "6"

13. With reference to paragraph 4.3(8), I say that Ministry of Health & Family Welfare, New Delhi under letter No. Z.28014/1/93 Estt.III dated 18.9.93 forwarded the representation dated 26.7.93 of the Applicant for information and consideration. Immediately on receipt of this communication, the Ministry of Health & F.W. was informed under letter No. FW/PF/SP/93-94/740 dated 11.10.93 that there is no need for any further consideration at FWT & RC, Bombay as both the officials,

i.e. Shri S. Prasad & Shri T.R. Bhogle were found guilty and warned. However, Ministry was also informed that in case Ministry feel any consideration is required, relevant documents can be sent to them on hearing from them. There was no reply for this letter.

Ex. "7"

Ex. "8"

Annexed herewith and marked Exhibits "7" and "8" are copies of the said Ministry's letter and its reply respectively.

14. With reference to paragraph 4.4, I say that the correct facts are that the O.A. was not served on the Respondents well before its disposal by the Hon'ble Tribunal on 25.2.94. The copy of O.A. was collected from the Hon'ble Tribunal on receiving the judgement vide order No. CAT/BOM/JUDL(J)/O.A.140/94/2473 dated 7.3.94 on 18.3.94.


15. With reference to paragraph 4.5, I say that in accordance with the directions of the Hon'ble Tribunal in its order dated 25.2.94, the Department has forwarded the O.A. copy, parawise comments and copy of the order of the Tribunal to Ministry of Health & F.W., New Delhi for further action. As desired by the Ministry, the Department has filed an M.P. for seeking extension of time for implementing the order of the Hon'ble C.A.T. vide M.P. No.911/94 and the Hon'ble C.A.T. has kindly granted extension upto 31.10.94 vide order No.140/94/8465 dated 26.9.94. The Applicant has also filed C.P. No.109/94 which was listed for hearing on 11.11.94 in the order of the Hon'ble C.A.T. dated 26.9.94. The C.P. came for hearing on 11.11.94 and disposed of.


16. With reference to paragraphs 4.6 to 4.10, I say that in accordance with the directions of the Hon'ble Tribunal, the Applicant was given personal hearing by the Secretary (F.W.) on 30.9.94 and a speaking order under No. C.18014/1/94 Estt.III dated 27.10.94 has been issued and delivered to the Applicant on 28.10.94. Annexed herewith and marked Exhibit "9" is a copy of the said speaking order.

17. With reference to what is stated in the rest of the Application, I deny the correctness of all allegations, submissions and contentions mentioned therein as if the same were specifically set out herein and traversed to the extent the same are contrary to and/or inconsistent with what I have stated herein.

In the premises I pray that the Application be dismissed with costs.

Solemnly affirmed at Bombay)
this 4 day of ~~December~~ ^{March} 1996)


Advocate for the Respondents


DIRECTOR
प. क. प्र. तथा जलु केन्द्र बम्बई
P. W. T. & R. Centre, Bombay

Before me,