

(02)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. **271/95**
Transfer Application No.

Date of Decision : 23.3.95

Jethanand D. Lalwani

Petitioner

Mr. R.P. Saxena

Advocate for the
Petitioners

Versus

U.O.I. & Ors.

Respondents

Mr. Ravi Shetty for R.K. Shetty

Advocate for the
respondents

C O R A M :

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

The Hon'ble Shri **P.P. Srivastava, Member(A)**

(1) To be referred to the Reporter or not ? —

(2) Whether it needs to be circulated to
other Benches of the Tribunal? *ND*


Vice Chairman

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, 'GULESTAN' BUILDING NO.6
PRESCOT ROAD, BOMBAY 1

O.A.NO. 271 of 1995

Jethanand D. Lalwani

..Applicant

V/s

Union of India & 2 ors.

..Respondents

Coram: Hon.Shri Justice M.S.Deshpande, V.C.
Hon.Shri P.P.Srivastava, Member(A)

Appearance:

Mr. R.P.Saxena

Counsel for the applicant

Mr.Ravi Shetty for Mr.R.K.Shetty

Counsel for the respondents

ORAL JUDGMENT:

DATED: 23.3.95


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


This petition is directed against initiation of departmental proceedings against the applicant on the basis of two charges. The first being that the applicant was unauthorisedly absent without prior permission from duty and secondly he was in custody of goods belonging to CSD worth Rs.40,040 and was in police custody from 12.6.93 to 25.6.93. The applicant came to be acquitted in respect of charge u/s.124 of the Bombay Police Act by the Additional Chief Metropolitan Magistrate on 7.6.94 observing that the suspicion expressed by the prosecution appears to be not on legal foundation. It must be noted that there is no bar in law to a departmental proceeding to be held in respect of the subject matter upon which the delinquent came to be acquitted by the Criminal Court. In the criminal proceedings the offence has to be established beyond reasonable doubt, ^{while} in the departmental proceedings, preponderance of probability would decide the matter.

2. Having regard to the facts alleged in the present case, we do not think that we could at this stage stop

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the departmental enquiry initiated against the applicant in respect of being allegedly in possession of property belonging to CSD. There is yet another ^{charge} regarding his unauthorised absence and we find that the enquiry can legitimately proceed in respect of both the charges. O.A. is, therefore, summarily dismissed. The interim stay is vacated.


(P.P. Srivastava)
Member(A)


(M.S. Deshpande)
Vice Chairman

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