

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 751/97

Date of Decision: 19.7.1999

J.N.Pokardasani

Applicant.

Shri R.P.Saxena

Advocate for
Applicant.

Versus

Union of India & Ors.

Respondent(s)

Shri R.K.Shetty

Advocate for
Respondent(s)

CORAM:

Hon'ble Shri. D.S.Baweja, Member (A)

Hon'ble Shri. S.L.Jain, Member (J)

- (1) To be referred to the Reporter or not?
- (2) Whether it needs to be circulated to other Benches of the Tribunal?


(D.S.BAWEJA)
MEMBER (A) 

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

OA NO. 751/97

Monday this the 19th day of July, 1999.

CORAM : Hon'ble Shri D.S.Bawej, Member (A)
Hon'ble Shri S.L. Jain, Member (J)

Jairaj N. Pokardasani,
19-B, Kripadham Society,
2nd Kasturba Road,
Borivali (East),
Mumbai 400 066.

... Applicant

By Advocate Shri R.P.Saxena

V/S.

1. Union of India through
The General Manager,
Canteen Stores Department,
ADELPHI 119, M.K.Road,
Mumbai.
2. Joint General Manager,
Canteen Stores Department,
ADELPHI 119, M.K.Road,
Mumbai.
3. Area Manager,
Canteen Stores Department,
Building No. T/1/1, 9, IRSB,
Kancherapalem P.O.
Visakhapatnam - 530 008.

... Respondents

By Advocate Shri R.K.Shetty

ORDER (ORAL)

(Per: Shri D.S.Bawej, Member (A))

This application has been filed challenging
impugned orders dated 26.8.1996 and 12.11.1996 of the
disciplinary authority and the appellate authority
through which punishment of removal from service
has been imposed.

2. The applicant while working as U.D.C. in Canteen Stores Department, Govt. of India, Ministry of Defence was issued a chargesheet dated 23.9.1994. An exparte enquiry was conducted and the copy of the enquiry report was furnished to the applicant. The applicant submitted a defence against the same. Thereafter, the disciplinary authority as per order dated 26.8.1996 imposed a punishment of removal from service. The applicant made an appeal against the same and the appeal was rejected as per order dated 12.11.1996. Feeling aggrieved by this punishment, the present OA. has been filed on 29.8.1997.

3. The respondents have filed written statement. However, the applicant has not filed any rejoinder reply to this. Heard the arguments of Shri R.P.Saxena, learned counsel for the applicant and Shri R.R.Shetty on behalf of Shri R.K.Shetty, learned counsel for the respondents.

4. The applicant has challenged the impugned order on several grounds. One of the grounds is that the appellate order has not been issued by the appellate authority himself but by a lower authority and is also not a speaking order. On going through the appellate order dated 12.11.1996, we find that the same does not cover the remarks of the appellate authority on

the various points raised by the applicant in his appeal to show that the appellate authority has passed this order with application of mind.

It is our considered view that the order of appellate authority dated 12.11.1996 is not a speaking order and therefore it is considered appropriate at this stage that the matter be remitted to the appellate authority to reconsider the appeal and pass a speaking order. The applicant has also filed same M.P.No. 158/99 making L prayer that the impugned order of appellate authority dated 12.11.1996 be set aside and the matter remanded to the appellate authority to pass a speaking order ^{after} giving a personal hearing.

5. In the light of the above, the order of appellate authority dated 12.11.1996 is set aside with the direction to the appellate authority to reconsider the appeal and pass a speaking order. A personal hearing ^{will} also be given to the applicant by the appellate authority. The compliance of this order be done within a period of three months from the receipt of this order. All contentions raised in the OA. are left open and if the applicant is aggrieved by the order of the appellate authority, he can seek legal remedy as per law. M.P.No. 158/99 accordingly L also stands disposed of. No order as to costs.

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

D.S.BAWEJA
(D.S.BAWEJA)
MEMBER (A)