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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

CP.44/95 & CP.45/95in
O.A.No. 1276/93.

Dt.of Decision : 12-12-95.

CH. NARAYAN ACHARYULU

.. Applicant in
both the CPs.

Vs

Admiral V.S.Shekawath, I.N.
Chief of the Naval Staff,
Naval Headquarters, DHQ P.O.
South Block, New Delhi-110 011.

.. Respondent in
CP.No.44/95.

Commodore D.R.Acharya,
Director of Civilian Personnel,
Naval Headquarters, DHQ P.O.
Sena Bhavan, 'D' Block,
Room No.101, New Delhi-110 011.

.. Respondent in
C.P.No.45/95.

Counsel for the Applicant

: Mr. CH.Narayanacharyulu
(Party-in-person)

Counsel for the Respondents

: Mr. N.R.Devaraj, Sr.CGSC.
in both the CPs.

CORAM:

THE HON'BLE SHRI JUSTICE V. NEELADRI RAO : VICE CHAIRMAN

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

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CP 44/95 & CP 45/95

IN

CA No.1276/93.

Dt. of Order:13-12-95.

(Order passed by Hon'ble Justice Shri V.Neeladri Rao,
Vice-Chairman).

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The applicant in the Original Application filed these Contempt Petitions. The two Contempt Petitions can be conveniently disposed of by common order and hence ~~the~~ and common order is passed.

2. One of the contentions raised in CA 1276/93 was that as Sri R.B.Suri, who was then Vice-Admiral, Chief of Personnel, Naval Headquarters, CP Directorate, New Delhi, ^{authority} was an/equivalent to Sri L.Ramdas, who was at the relevant time Admiral, Flag Officer Commanding-in-Chief, Eastern Naval Command, Visakhapatnam the former cannot hear the appeal ~~against~~ the order dt.21-3-90 passed by Sri L.Ramdas, who was at the relevant time Vice Admiral. We accepted the said contention of the applicant and there by the order dt.21-4-93 was ~~a~~ set aside, and the matter was remitted to the Chief of Naval Staff for disposal in accordance with law. It was observed interalia that in case the applicant is going to make a request for personal hearing at the time of the consideration of the appeal, the appellate authority had to give him personal hearing for the applicant as it was so ordered by the Bench as per order dt.8-3-91 in CA 303/90.

3. It is not in controversy that in pursuance of the said order Admiral V.S.Shekawath, the Respondent in CP 44/95, the Chief of the Naval Headquarters, who was the appellate authority gave the appli-
.....3.

cant personal hearing for consideration of the appeal against the order passed by the then Vice Admiral Sri L.Ramdas.

4. But the plea of the applicant is that the order in the said appeal was prepared by the Commodore D.R.Acharya, Director Civilian Personnel, Naval Head Quarters, New Delhi, the Respondent in CP 45/95 eventhough it was signed ^{by} in the Admiral V.S.Shekavat and thus it is a case of violation of order in CA 1276/93 by the Respondents in both the Contempt Petitions.

5. When it was pleaded in the CA 277/95 to the effect that the order in appeal was actually prepared by Commodore D.R.Acharya, Director of Civilian Personnel, Naval Head Quarters, New Delhi and hence the same cannot be treated as appellate ~~the~~ authority's order eventhough it was signed by the Appellate Authority and after considering the reply statement in CA 277/95, we observed as under in para-12 of the order dt.5-9-95 in CA 277/95 as under :-

"When it was observed for the applicant that the impugned order No.CP(C)/6022 dt.6-1-95 was not prepared by Respondent No.2 and he merely signed it, ~~and~~ the same was not categorically denied. Hence we are constrained to set aside the above order dt.6-1-95 and to remit it to Respondent No.2 for disposal by him in accordance with the Law".

6. It is even admitted case of the applicant that it is the Admiral V.S.Shekavat, who heard his arguments at the time of personal hearing for consideration of the appeal. It is also the case of the applicant that Commodore D.R.Acharya was also present at the time of the personal hearing.

7. In view of our observations in para-12 of the Judgement in

To

1. Sri Admiral v.S.Shekawath, I.N.
Chief of the Naval Staff, Naval Headquarters,
DHQ P.O.South Block, New Delhi-11.
2. Sri Commodore D.R.Acharya,
Director of Civilian Personnel,
Naval Headquarters, DHQ PO Sena Bhavan,
'D' Block, R.No.101, New Delhi-11.
3. One copy to Mr.Ch.Narayanacharyulu, Rarty-in-person, CAT.Hyd.
4. One copy to Mr.N.R.Devraj, Sr.CGSC.CAT.Hyd.
5. One copy to Library, CAT.Hyd.
6. One spare copy.

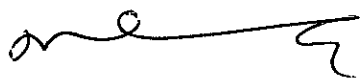
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OA 277/95, ^{Qe} we proceed on the basis that the order dt.6-1-95 in the appeal was prepared by Commodore D.R.Acharya even though it was signed by Admiral Shekavat. Then the question arises as to whether the said act is in deliberate violation of the order passed in OA 1276/93. It is urged for the Respondents that the appellate order was signed by Admiral V.S.Shekavat and it has to be held that it is the order passed by Admiral V.S.Shekavat only.

8. The Tribunal can take cognisance ^{2a} of the fact that the higher authority will dictate in regard to the Administrative orders and require the lower authority to verify the facts and place it before him and if the same is placed before the higher authority after verification he will approve it and sign it. If the Admiral V.S.Shekavat followed the said practice in regard to Administrative orders, even while discharging duty as appellate authority, it cannot be stated that it is a deliberate violation of the order in OA 1276/93 by Admiral V.S.Shekavat.

9. Hence we feel that the contempt is not established against either of the respondents in the Contempt Petitions and accordingly both the Contempt Petitions ³ are dismissed. No costs. //



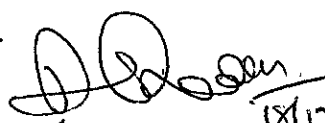
(R.RANGARAJAN)
Member (A)



(V.NEELADRI RAO)
Vice-Chairman

Dated: 13th December, 1995.
Dictated in Open Court.

avl/


for Deputy Registrar
18/12/95
cc