

**Central Administrative Tribunal
Principal Bench**

RA No.17/2015 in OA No.3166/2012

New Delhi, this the 15th day of March, 2019

**Hon'ble Sh. Justice L. Narasimha Reddy, Chairman
Hon'ble Mohd. Jamshed, Member (A)**

1. General Manager
Northern Railway Hospital,
Baroda House, New Delhi.
2. Chief Medical Supdt.,
Divisional Hospital,
Northern Railway, Delhi.
3. Addl. Chief Medical Supdt.,
Health and Family Welfare,
Divisional Hospital,
Northern Railway, Delhi. ...Review Applicants

(By Advocate : Shri Shailendra Tiwari)

Versus

Sh. V. K. Walia
S/o. Late Satish Chand Walia,
Safai Karamchari,
Under Chief Health Inspector,
Northern Railway, New Delhi.
R/o. B-23 Y-1st Floor, DDA Flats,
Jehangirpuri,
Delhi – 110 033. ...Respondent

(By Advocate : Shri R.K. Shukla)

ORDER (ORAL)

Justice L. Narasimha Reddy:-

The respondent herein filed OA No.3166/2012 before this Tribunal feeling aggrieved by the order of dismissal dated 10.07.2012. One of the grounds raised by him was that the disciplinary inquiry was not conducted in accordance with law.

2. The OA was opposed by the applicants herein by denying all the allegations. After hearing both the parties at length, the Tribunal allowed the OA through order dated 03.11.2014. It was held that the departmental inquiry was not conducted in accordance with law and thereby the entire proceedings were vitiated. The report of the Inquiry Officer, the order of dismissal and the order of Appellate Authority were set aside and the direction was issued to the applicants herein to reinstate the respondent into service. However, liberty was given to them to commence the proceedings from the stage of appointment of the inquiry officer.

3. This Review Application is filed alleging that several factual and legal errors have crept into the

Order in the OA. Reliance is placed upon the judgment of the Supreme Court in ***Managing Director, ECIL, Hyderabad v. B. Karunakar*** –JT 1992(3) SC 605.

4. We heard Shri Shailendra Tiwari, learned counsel for the review applicants and Shri R.K. Shukla, learned counsel for the review respondent.

5. This Tribunal observed that the departmental inquiry in the instant case was not conducted in accordance with law. The manner in which the inquiry was held was mentioned at page 36 of the order and exception was taken to the same. It is not pleaded before us that the observation made by the Tribunal is not correct. Once the departmental inquiry is vitiated, the rest of the proceedings automatically lose their legality. Liberty was given to the applicants herein to conduct the proceedings afresh from the stage of appointment of the inquiry officer.

6. From the tone and tenor of this RA, it is evident that the applicants intend to conduct the inquiry afresh. Their concern is that the Tribunal directed not only

reinstatement of the applicant but also extension of the consequential benefits.

7. It is true that in **B. Karunakar's** case, the Hon'ble Supreme Court held that wherever any technical defect is pointed out, direction as to reinstatement shall not be ordered as a matter of course and the possibility must be explored as to whether the defects can be cured even without directing reinstatement. Those are mostly the cases in which the report of the IO was not furnished. In the instant case, however, the defect was as to the very conducting of the inquiry.

8. We are of the view that even while the direction as to reinstatement of the employee i.e. the respondent can be retained, the one for extension of the consequential benefits, needs to be deferred, till the conclusion of the proceedings that may be resumed by the applicants herein.

9. The RA is accordingly allowed partly, reviewing that part of the direction issued by this Tribunal as to the extension of consequential benefits, and directing that in case the applicants herein resume the

disciplinary proceedings within a period of three months from today, they can defer the payment of all the consequential benefits till the conclusion of the proceedings within a period of six months thereafter. If they fail to resume the proceedings, within three months, they shall be under the obligation to extend the benefits. There shall be no order as to costs.

(Mohd.Jamshed)
Member(A)

(Justice L. Narasimha Reddy)
Chairman

/vb/