

Withholding
Increments &
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CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

NEW DELHI

O.A. No. 375 of 1987
XXXXXX No.

DATE OF DECISION 27.3.1991

Asumal U. Kuraria

Petitioner

Mr. M.R. Anand

Advocate for the Petitioner(s)

Versus

Union of India & Ors.

Respondent

Mr. N.S. Shevde

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P.H. Trivedi Vice Chairman

The Hon'ble Mr. R.C. Bhatt Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

(9)

Asmal U. Kuraria
Chief Goods Supervisor
G.N.F.C. Siding
Western Railway
BROACH

... Petitioner

(Advocate - Mr. M.R. Anand)

Versus

1. Union of India,
(Railway Ministry)
Rail Bhavan
NEW DELHI
2. Senior Divisional Commercial Superintendent,
Western Railway,
Pratapnagar,
BARODA
3. Divisional Rail Manager,
Western Railway,
Pratapnagar,
BARODA

... Respondents

(Advocate Mr. N.S. Shevde)

CORAM : Hon'ble Mr. P.H. Trivedi

... Vice Chairman

Hon'ble Mr. R.C. Bhatt

... Judicial Member

O.A./375/87

O R D E R

Dated 27.3. '91

Per : Hon'ble Mr. P.H. Trivedi

... Vice Chairman

Heard Anil Raval for Mr. M.R. Anand and Mr. N.S. Shevde learned advocate for petitioner and respondent states that now that ^a three Member Bench of the Supreme Court has ruled in Mohd. Ramzan Khan's case that it is violative of the principle of natural justice to make an order of punishment on the inquiry report by the disciplinary authority without first giving a copy of the inquiry report and giving an opportunity to the delinquent officer to make a representation about the proposed order of disciplinary authority. In this case, there is no dispute that such an inquiry report has not been so furnished prior to the order of punishment having been passed by the disciplinary authority, ^{which} the inquiry officer are in this case different. It is likely

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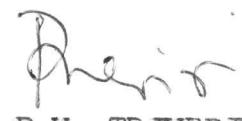
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that the plea that it is not required to give a copy of the inquiry report before the order of punishment is passed, has been taken on the basis of the appreciation of the legal position as had existed prior to the said order of the Supreme Court in the decision in Mohd. Ramzan Khan's case, there can be no dispute that the present case is a pending matter and therefore, will have to be governed by that decision.

The petitioner has also taken the plea that after issue of memo charges, new charges have been added. He has not satisfied us how this action is not within the competence of the respondents authorities. It is however hot proposed to deal with this matter in detail in view of the reasons given in the previous paragraphs.

For these reasons the petition has merit. The impugned order at Annexure B Dt. 13.1.1987 and Annexure E dt. 5.5.1987 of the disciplinary authority and the appellate authority respectively are quashed and set aside. The respondents are at liberty to proceed with the proceedings after furnishing the inquiry report. There shall be no order as to costs.


(R.C. BHATT)
Judicial Member


(P.H. TRIVEDI)
Vice Chairman

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| Date | Office Report | Order |
|---------|------------------------------------|--|
| 5/06/92 | R | To post the case before Hon'ble Mr. R. C. Bhatt, Member (J) on 16/06/92. Prakash (B. B. MAHAJAN) Member (A) |
| 1/5/92 | AIT | Prima facie no review lies on the grounds mentioned in the review application. However, the counsel for the respondents seeks time to show the authority in support of his contention. The case may be listed for preliminary hearing before the next Division Bench. |
| | Resul (R.C.Bhatt) Member (J) | Prakash (B.B.Mahajan) Member (A) |
| 7/5/92 | ttc. | |

Review
Pending
(Withholding of
order of judgement)
Ex-AxxNox

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

R.A.No. 17 OF 1991

in

O.A. No. 357 OF 1987

Ex-AxxNox

DATE OF DECISION 13-7-1992.

Union of India & Ors.

Petitioners

(Orig. Respondents)

Mr. N.S. Shevde,

Advocate for the Petitioner(s)

Versus

Asulal U. Kuraria,

Respondent

(Orig. Applicant)

Mr. M.R. Anand,

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. N.V. Krishnan, Vice Chairman.

The Hon'ble Mr. R.C. Bhatt, Judicial Member.

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

Union of India & Ors.

.... Applicants
(Orig. Respondents)

v/s.

Asulal U. Kuraria.

.... Opponents.

(Orig. Applicant)

R.A.No. 17 OF 1991

in

O.A.No.375 OF 1987

Date: 13.7.1992.

Per: Hon'ble Mr. R.C.Bhatt, Judicial Member.

Heard learned advocate Mr. Shevde for the applicant (Original Respondents). Mr. Shevde has submitted that the decision ~~which~~ ^{re} has been given by the Bench in O.A. 375/87 dated 27th March, 1991 relying on the decision of the Hon'ble Supreme Court in Mohmad Ramzankhan's case but the said decision ~~it~~ has prospective effect that if the inquiry is pending on 29th November, 1990 the said judgment would apply. Therefore, punishment already imposed cannot be reopened. We have heard the learned advocate and we find no justification to review our decision because none of the ingredients of order 47 Rule 1 of Civil Procedure Code. In the case before the Bench in O.A. 375/87, inquiry report was not furnished before order of punishment by disciplinary authority, hence this Bench decided matter on the ratio of Mohmad Ramzankhan's case. More over recently in the decision in Zahid Hussain V/s. Union of India & Ors. ATR 1992(1) CAT 572 Allahabad, it has been held that the Tribunal has jurisdiction and power to grant relief in the cases covered by the judgment

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of the Hon'ble Supreme Court in Mohd. Ramzan Khan's case, notwithstanding the fact that the impugned order of penalty was imposed on a date prior to 29th November, 1990. We see no ground to admit this review application and reject the same.

Roshan

(R.C.Bhatt)
Member (J)

Dinesh
13.7.92

(N.V.Krishnan)
Vice Chairman.

vtc.