

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
~~XXXXXXXXXXXX~~

O.A. No. 77 of 1988.
~~XXXXXXXX~~

DATE OF DECISION 16.4.1991

Shri S.Y. Pathan Petitioner

Shri K.K. Shah Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

Shri N.S. Shevde Advocate for the Respondent(s)

CORAM :

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

The Hon'ble Mr. S. Santhana Krishnan .. Judicial Member

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

Shri S.Y. Pathan,
Train Ticket Examiner(Godhra),
residing at
Nr. Painter Lala's House,
Krishna Cinema Road,
Godhra - 389 001.
(Advocate - Mr.K.K. Shah)

.. Petitioner

Versus

1. Union of India,
Through,
General Manager, W.Rly.,
Churchgate,
Bombay 400 020.
 2. Divisional Railway Manager,
Western Railway,
Pratapnagar,
Baroda.
 3. Senior Divisional -
Commercial Superintendent,
Western Railway,
Pratapnagar,
Baroda.
 4. Divisional Commercial Supdt.,
Western Railway,
Pratapnagar,
Baroda.
- (Advocate - Mr. N.S. Shevde)

.. Respondents

O.A. No. 77 of 1988

J U D G M E N T

Dated : 16.4.1991

Cases referred by applicant :

1. 1986 A.T.C. 176 - Kashinath Dikshita v. Union of India & others.
2. A.I.R. 1961 S.C. 1623 - State of Madhya Pradesh v. Chintaman Sadashiva Waishampayan.
3. A.I.R. 1968 S.C. 158 - State of Uttar Pradesh v. C.S. Sharma.
4. 1990 Vol.12 A.T.C. page 6. relevant para 10, page 10, P.P. Kuttappam v. Sr. Supdt. of RMS, RMS 'TV' Dn. Trivandram and others.
5. 1980 (SLJ) Page 477 - Mohanbhai Dungarbhair Parmar v. Y.B. Zala and another.
6. A.T.R. 1986 C.A.T. 424 - Pankari Pada Mukherjee v. Union of India and other.

7. J.T. 1990(4) S.C. 456 - Union of India and others v. Mohd. Ramzan Khan.
8. T.A. No. 1392 of 1986 - Shri Ghanshyam Ladikram Jhantani v. Union of India and others decided by Central Administrative Tribunal, Ahmedabad.

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

In this case, under section 19 of the Administrative Tribunals Act, 1985, the petitioner has impugned orders by which his appeal was rejected by order dated 5.5.1987 and the Disciplinary Authority's order dated 17.11.1986 and the Reviewing Authority's order dated 26.10.1987. He has advanced various grounds among which are - Non-supply of certified copies of the documents on which respondents relied; The language used in taking down the statement of witnesses being Urdu instead of either Hindi or Gujarati which the petitioner understands; Non-examination of certain important witnesses; The wrong assessment of the evidence; The appointment of an Inquiry Officer below the status of Disciplinary Authority; and the changes made in the Inquiry Officer's appointment by the respondents.

2. The respondents have mainly contested the grounds given by the petitioner.

3. We have not thought it necessary to examine in detail merits of the rival contentions or applicability of the law derived from various cases cited for reasons to follow.

4. The respondents have admitted that they have not supplied the copy of the Inquiry Report before the order of punishment has been passed. They have averred in para 12 of their reply as follows :

"It is not disputed that the findings of the Inquiry Officer were supplied to the applicant alongwith

(6)

Notice of imposition of penalty No. EC/161/308/27/5601/1 dated 17.11.1986 produced by the applicant at Annexure A/6."

On this question, after reviewing various judgments, a three Member Bench of the Supreme Court in the case JT 1990(4) S.C. 456 - Union of India & Ors. v. Mohd. Ramzan Khan, has finally held that non-supply of the Inquiry Report before the order of punishment by the Disciplinary Authority deprives the delinquent officer of the opportunity of making a representation to it and in so far as it is part of the material on which Disciplinary Authority bases his order of punishment, his relying on it without furnishing it to the delinquent officer is violative of natural justice and therefore, the order of punishment is vitiated and is bad in law. The same view was held earlier by a three Member Bench of this Tribunal in Premnath Sharma's case, the Supreme Court's judgment becomes the law governing the subject until a larger Bench of the Supreme Court holds otherwise. This alone is sufficient for the result of quashing the impugned orders.

5. For the reasons stated above, the impugned orders dated 5.5.1987, 17.11.1986 and 26.10.1987 are held to be illegal and void and are quashed and set aside. The respondents are directed to take the petitioner back in service to the post of TTE/GDA in the same grade in which he was working before the order of his punishment. The respondents will, however, be at liberty to pass appropriate orders after giving an opportunity to the petitioner to make his representation on the Inquiry Report and in making such representation, the petitioner will have an opportunity to bring out the alleged defects in the inquiry in support