

No.
Removal

CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
~~NEW DELHI~~

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O.A. No.

78 pf

198X 1991

~~T.A. No.~~

DATE OF DECISION 30.7.1991

~~Mr. Punamchand Khushaldas Parmar~~ Petitioner

Mr. B.B. Gogia

Advocate for the Petitioner(s)

Versus

Union of India & Ors.

Respondent

Mr. B.R. Kyada

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. M.M Singh

: Admn. Member

The Hon'ble Mr. R.C. Bhatt

: Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *Yes*

Mr. Punamchand Khushaldas Parmar,
C/o. Mr. B.B. Gogia, Advocate,
S/10, J.N. Plot,
RAJKOT.

: APPLICANT

(Advocate : Mr. B.B. Gogia)

VS.

1. Union of India, through
The General Manager,
Western Railway,
Churchgate,
BOMBAY -400 020.

2. Sr. Divl. Mechanical Engineer,
Western Railway,
Kothi Compound,
RAJKOT.

: RESPONDENTS

(Advocate: Mr. E.R. Kyada)

CORAM : Hon'ble Mr. M.M. Singh

: Admn. Member

Hon'ble Mr. R.C. Bhatt

: Judicial Member

O R A L - O R D E R

C.A. No. 78 of 1991

Date: 30.7.1991

Per : Hon'ble Mr. M.M. Singh

: Admn. Member

This original application under Section 19 of the Administrative Tribunals Act, 1985, has been filed by the applicant & Railway Employee, to seek relief against the order of punishment dated 3.5.1989 and 2.3.1990 and appellate order dated 19.6.1990 which are alleged to be illegal, ineffective and void, and are therefore liable to be quashed.

2. We heard Mr. Gogia learned counsel for the applicant and Mr. Kyada learned counsel for the respondents.

3. One of the allegations in the application is that, copy of the inquiry officer's report was not supplied to the applicant before the issue of the final order, and that the

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same was supplied to him alongwith the punishment order dated 3.5.1989 imposing punishment of removal from service. Against this order, the applicant preferred appeal application dated 8.6.1989 addressed to Sr. D.M.E. (C&W), Rajkot. On this appeal application, fresh inquiry was ordered vide order dated 3.8.1989 by the Divisional office. After this fresh inquiry, fresh order^g punishment of removal from Railway Service was inflicted by order dated 2.3.1990 which is produced at Annexure A-10. This order is completely silent about furnishing to the applicant the fresh inquiry report. The order says that findings in the Inquiry are not accepted and the delequent is held guilty. It appears from this that the inquiry report was to the effect that the charges against the applicant had not^{been} proved. Against this order of 2.3.1990, the applicant preferred appeal application dated 11.4.1990 addressed to Senior DME- Rajkot. This appeal application was decided by order dated 19.6.1990 whereby fresh appointment was given to the applicant as a Cleaner, without any benefit of past service.

4. We have perused the record. Order dated 3.5.1989 produced at annexure A-6 issued by the Divisional, Rajkot mentioning that findings are accepted and that findings are enclosed. This shows that findings of the Inquiry officer were handed over to the applicant alongwith that order. This order removed the applicant from Railway Service.

5. It is ~~a~~ settled law in Union of India & Ors Vs. Mohammed Ramzan Khan (JT) 1990 (4) S.C. 456, that non-supply^h of the copy of the Inquiry Officer's Report to the delequent before inflicting punishment, amounts to denial of justice^m so far as delequent is deprived of opportunity of representation against findings of the Inquiry Officer. As the inquiry in question suffers from this defect, the

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same is liable to be set aside from the stage of defect.

6. In view of the above, order of punishment dated 3.5.1989 and 2.3.1990 and the appellate order dated 19.6.1990 have to be quashed and set aside. The respondents are at liberty to rectify the above defect from the stage it was ^{arise} ⁱⁿ grievance in the inquiry. The ^{treatment of} ^{the} ^{will} ⁱⁿ ^{the} period after removal of the applicant upto the date of restoration in service, though as fresh appointee, ^{as a result of} the appellate order ^{will} ⁱⁿ ^{the} still depends on the outcome of the final result of the inquiry ^{after} ^{the} ^{rectification of} ^{the} defect.

7. There shall be no orders as to costs.

R.C. Bhatt

(R.C.BHATT)
Member (J)

M.M. Singh

(M.M.SINGH)
Member (A)

*Ani.