

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
NEW DILKUSHI

(6)

O.A. No. 171 of 198 1991
TAX No.

DATE OF DECISION 4.10.1991

Shri Nathulal B. Paul 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.S. Habeeb Mohammed : Member (A)

The Hon'ble Mr. R.C. Bhatt : Member (J)

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

J

Shri Nathulal B. Paul,
C/O. Western Railway,
Employees Union,
Western Railway,
MEHMDABAD.

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: APPLICANT

(Advocate : Shri K.K.Shah)

Vs.

1. Union of India, through
The General Manager,
Western Railway,
Churchgate,
BOMBAY -400 020.
2. Divisional Railway Manager,
Western Railway,
Baroda Division,
Pratapnagar,
BARODA.
3. Sr. D.E.N. (III)
Western Railway,
Baroda Division,
BARODA.
4. Divisional Engineer,
Western Railway,
BARODA.

: RESPONDENTS

(Advocate : Shri N.S. Shevde)

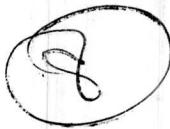
J U D G E M E N T

O.A. No.171 of '91

Date : 4.10.1991

Shri Nathulal B. Paul has filed this application under Section 19 of the Administrative Tribunals Act, 1985 with the prayer for issue of directions by the Tribunal quashing and setting aside the impugned charge sheet and the ~~removing~~ ^{recommending} relieving him from service and the order by order passed by the disciplinary authority ^{and} appellate authority confirming the order in appeal and review and reviewing authority ^{and} by holding such orders as illegal, null and void. There is also a prayer for issue of directions to the respondents to reinstate the applicant with all consequential benefits including backwages by considering him to have continued in service. He has also prayed for other incidental directions. The application gives details of the charge sheet ^{or} framed against the applicant and served to him on 8.4.1989

bv



and the subsequent development in the case including the proceedings before the enquiry officer and the disciplinary authority and the other authorities. On account of the various flaws as pointed out in the application, the applicant has prayed for quashing the impugned orders and for the other benefits as mentioned earlier in his prayer for relief.

2. The stand of the respondents is that, the orders have been passed according to law and there is no irregularity either in conducting the enquiry or at any of the subsequent stages. There is also a rejoinder filed by the applicant dated 26.9.1991. We have perused the application and the other documents filed by the applicant, the reply by the respondents and we have heard the rival arguments on the subject.

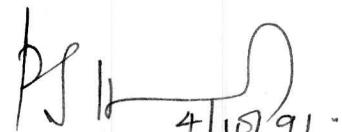
3. It is not disputed that a copy of the enquiry report was not supplied to the applicant before the penalty of removal from service was imposed on the applicant vide disciplinary authority's order dated 12.12.1989. The appellate order passed by respondent No. 3 dated 7.5.1990 has also not considered this aspect for whatever reason may be, and the reviewing authority's order No.DAR/118/89 dated 25.3.1991 also does not refer to this aspect. In the recent judgement of the Hon'ble Supreme Court of India, in Union of India Vs. Mohd. Ramzan Khan JT (1991) SC 471, it is held that the delinquent is entitled to copy of the report of the enquiry before the punishment is imposed on him, so that he can have the opportunity to make representation against it. This judgement there-
~~fore~~ being the decision of the Supreme Court is the 'Law of the Land', and while we are not entering into the other grounds as stated in the application, the impugned orders have to be quashed only on the ground that the copy of the enquiry report was not given to the applicant before the impugned orders were passed by the disciplinary authority. Accordingly



(5)

the impugned orders passed by the disciplinary authority No.E/DAR/118/89 dated 12.12.1989 (annexure A-1), the appellate authority's order No.DAR/118/89 dated 7.5.1990 (annexure A-2), and reviewing authority's order No.DAR/118/89 dated 25.3.1991 (annexure A-3), are quashed and the matter is ~~to be~~ remitted to the disciplinary authority for considering the case from the stage at which it was before the first impugned order No.E/DAR/118/89 dated 12.12.1989 was passed by the disciplinary authority. ^{The appeal} He should be reinstated in service without delay and this should be done within one month from the date of receipt of a copy of this order. The respondents are directed accordingly. Depending on ^{the further report} ~~of~~ the disciplinary proceedings, if any, the respondents shall, also, at the appropriate time, pass a speaking order, as to how the intervening period between the removal from service and ^{the} ~~to~~ reinstatement in service, shall be treated. Respondents are directed accordingly. There will be no orders as to costs.


(R.C.BHATT)
Member (J)


(P.S. HABEEB MOHAMMED)
Member (A)
4/10/91