CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 449 of 1993

Date of decision : 11.08.2000

Mr. Pramod Kumar R. : Petitioner [s]

Mr. C. P Jadav : Advocate for the petitioner [s]

Versus

Union of India and Ors. : Respondent [s]

Mr. N. S. Shevde : Advocate for the Respondent [s]

CORAM :

THE HON'BLE MR. V. RAMAKRISHNAN : VICE CHAIRMAN

THE HON'BLE MR. A.S. SANGHAVI : MEMBER [J]

JUDGMENT

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

Shri. Pramod Kumar R.
Residing at Block No.316/3788,
MGV Vasahat,
Gotagam,
Ahmedabad. = Applicant =

Advocate : Mr. C. P. Jadav

Versus

1. The Union of India
To be served through :
The General Manager,
W. Rly. Church gate,
Mumbai : 20.

3. The Dy. Chief Signal
& Tele-Communication Engr.,(Con.)
W. Rly., Railwaypura,
Ahmedabad - 2.

3. District Signal & Tele-Communication
Engineer,
Railwaypura,
Ahmedabad - 2. = Respondents =

Advocate : Mr. N. S. Shevde

JUDGMENT
O.A 449 of 1993

Date : 11/08/2000

Per Hon'ble Shri. A. S. Sanghavi : Member (J).

The applicant who was employed as a Khalasi with the respondents has moved this O.A challenging the penalty of dismissal awarded to him after the inquiry and has also prayed for setting aside the penalty order as well as the inquiry with a direction to the respondents to reinstate him in the service with

all full back wages. According to the applicant, he was charge sheeted on dated 01.09.89 and even though he had demanded relevant documents relied upon by the respondents in the inquiry, he was not provided those documents. He had participated in the inquiry under protest but, after the inquiry was over, he was not supplied with the copy of the report of the inquiry officer and the disciplinary authority had without considering the objections raised by him awarded the punishment of removal from service on him. He had also preferred an appeal against the order of the disciplinary authority. The appellate authority also without applying mind to his appeal had rejected the appeal and hence this O.A is filed.

2. The respondents have resisted the O.A and have contended in their reply that the applicant had procured the service by submitting false certificate and had also indulged into forgery. The departmental inquiry was instituted against him and he was served with the charge memo. They have also contended that the inquiry officer had provided all the relevant documents as demanded by the applicant and it was not correct that he was not given relevant documents. They have also maintained that the inquiry was held as per the rules and regulations and there was no lacuna or any irregularity committed while carrying out the inquiry proceedings. They have also denied that the appellate officer has not applied mind to the appeal of the applicant and has mechanically rejected the appeal. According to the respondents, full opportunity was given to the applicant to defend

himself during the inquiry but, in fact the applicant has not cooperated in the inquiry proceedings and had failed to avail the opportunity given to him. They have prayed that the O.A be rejected with costs.

3. We have heard the learned advocate of both the parties at length and have also perused the documents produced on record as well as the file of the inquiry proceedings which was made available by Mr. N. S. Shevde on our direction.

4. Mr. C.P. Jadav, learned advocate appearing for the applicant has submitted that apart from the fact that the applicant was not supplied with the relevant documents, and that the inquiry had proceeded ex-parte against the applicant, the whole inquiry proceedings are vitiated on account of the non-supply of the inquiry officer's report to the applicant after the inquiry was concluded. He has submitted that the applicant was one of the eight employees who were similarly charge sheeted and the inquiry had proceeded against all eight of them. Most of them are awarded the penalty of removal from service and in another matter being O.A No. 448 of 93, decided by this Tribunal, the punishment awarded to the applicant therein has been set-aside by this Tribunal on account of non-supply of the inquiry report to the applicant therein. He has produced a copy of the Judgment in that O.A and has submitted that the facts of the instant case are also similar and the judgment of this Tribunal is applicable with full force to the facts of the instant case.

5. Mr. N. S. Shevde, learned advocate appearing for the respondents has on our direction produced the inquiry file of the applicant but he has not been able to show us from the file that the report of the inquiry officer was given or supplied to the applicant.

It is a settled position in view of the decision of the Supreme Court in the case of Union of India Vs. Mohmad Ramzan Khan reported in AIR 1991 S.C. 471 that furnishing of the inquiry report to the delinquent is absolutely necessary prior to awarding any punishment on the basis of that inquiry report. In the instant case, the inquiry report is clearly not supplied to the applicant and therefore, the ~~entire inquiry~~ penalty order is vitiated. The disciplinary authority could not have awarded any punishment on the applicant without supplying the inquiry report to the applicant and under the circumstances, we hold that the ~~inquiry~~ order is vitiated on account of the non-supply of inquiry report by the disciplinary authority. On this ground alone, the O.A therefore, is required to be allowed. We do not propose to enter into other questions raised in this O.A. However, considering the articles of charges, we do not propose to quash the entire inquiry proceedings also. We therefore, allow the O.A and quash the punishment order dated 11.07.91 and the appellate order dated 22.03.93 and remand the matter to the disciplinary authority with a direction to proceed further with the inquiry from the stage of furnishing a copy of the inquiry report to the applicant in accordance with the Railway Servants (Discipline & Appeal)

Rules, 1968. We further direct that the applicant may be reinstated in service as Khalasi pending disposal of the pending inquiry. With regard to the grant of back wages, the same shall be decided after the conclusion of the inquiry in accordance with the rules. We further direct that the inquiry from the stage of furnishing a copy of the report shall be finalised as early as possible and in any case within a period of six months from the date of receipt of a copy of this order. We expect that the applicant shall fully cooperate with the disciplinary authority in finalising the matter without any delay. The O.A is disposed of with the above directions. There will be no order as to costs.

(A.S. Sanghavi)
Member (J)

(V. Ramakrishnan)
Vice Chairman

Mb

FORM NO - 21

(See Rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, AHMEDABAD BENCH

OA/~~TA/RA/CP~~/ 449/93 ~~of 200~~

Mr Pramod Kumar R. APPLICANT(s)

VERSUS

U.O.I & Ors RESPONDENT(s)

I N D E X - S H E E T

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Certified that the file is complete in all respects.

Signature of S.O.(J)

Signature of Dealing Hand.