

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**AHMEDABAD BENCH**

**O.A.NO. 52 of 93**  
**Case No.**

**DATE OF DECISION 16.06.2000**

Shri. Murleedharan. M. Petitioner

Mr. C. P. Jada 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. C. Kannan : Member (W)

The Hon'ble Mr. M. P. Singh : Member (A)

**JUDGMENT**

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

NP

*DR*

Shri. Murleedharan. M.  
Residing at Block No.316/3788,  
M.G.V. Vasahath, Cross Chodadi,  
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 : 400 020.

2. Deputy Chief Signal & Telecommunication  
Engineer (Construction),  
W. Rly., Railwaypura,  
Ahmedabad - 2.

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

= Respondents =

**Advocate : Mr. N. S. Shevde**

**ORAL ORDER  
O.A 52 of 93**

**Date : 16.06.2000**

Per Hon'ble Shri. P. C. Kannan : Member (J).

We have heard Shri. Jadav, learned counsel for the applicant and Shri. N. S. Shevde, learned counsel for the respondents.

*Rn*

2. The applicant was working as Khalasi under the District Signal and Telecommunication, Engineer (construction), W.Rly., at Ahmedabad. The applicant is aggrieved against the order of dismissal dated 20.04.91 and 11.07.91 passed by the Assistant Signal and Telecom Engineer, A'bad (Annexures A/12 & A/9) and the order of the Appellate authority dated 13.11.92 (Annexure A/1). The case of the applicant is that the service of the applicant was earlier terminated by an order and the same was challenged before the Gujarat High Court in Spl. Civil Application No.3602 of 1985. The said S.C.A was subsequently transferred to this Tribunal and renumbered as T.A No. 1354 of 1986. This Tribunal by order dated 16.02.87 set aside the order of termination of services of the applicant and ordered reinstatement of the applicant with full back wages. Accordingly, the respondents reinstated the applicant. After the reinstatement, the respondents initiated fresh proceeding for an alleged misconduct committed in 1980. A charge sheet dated 01.09.88 was served upon the applicant. Articles I, II and III of the charge reads as follows :-

Article 'T'

*Serious Misconduct in that Shri. Murleedharan Madhavan has secured employment by producing forged service card for the work as Khalasi under PWI/C-KSE for the period from 01.01.80 to 20.04.80 and 01.05.80 to 20.08.80.*

*On*

The applicant was working as Khasi under the District  
Guruji and Telecommunications Engineer (consignment),  
W.R.L., at Ambedkar. The applicant is suggesting that the  
order of dismissal dated 20.04.01 and 11.01.02 passed by the  
Assistant Guruji and Telecom Engineer, A.p.dy (Annexure  
A\12 & A\9) and the order of the Appellate Authority dated  
13.11.02 (Annexure A\1). The case of the applicant is that the  
service of the applicant was earlier terminated by an order of  
the same was quashed before the Gurjat High Court in Civil  
Civil Application No 3602 of 1982. The said SC A was  
subsequently transferred to this Tribunal and interrupted as  
T.A. No. 1324 of 1982. This Tribunal by order dated 16.02.82  
set aside the order of termination of service of the applicant  
and ordered reinstatement of the applicant with full pay  
wages. Accordingly, the respondent reinstated the applicant  
After the reinstatement, the respondent initiated legal  
proceedings for the alleged misconduct committed in 1980 A  
charge sheet dated 01.02.88 was served upon the applicant  
Article I, II and III of the charge reads as follows:-

Article I

Section Misconduct in not serving  
Member in the service without proper  
service copy for the work as Khasi under PMU-C-KSE for the  
period from 01.02.80 to 30.04.02 to 30.08.02

Article 'II'

*Obtained unemployment by unfair means in that Shri. Murleedharan Madhvan has managed to get Service Card (by paying illegal gratification), even though he has never worked earlier in the Railways as a Casual labour and produced the same for gainful employment in Western Railway under Chief Signal Inspector (Const.) Ahmedabad, deliberately.*

Article 'III'

*Cheated Western Railway in that Shri, Murleedharan Madhvan has secured employment under the Chief Signal Inspector (Construction) W. Rly., Ahmedabad by producing the bogus Service Card and cheated the Railways to the tune of Rs.6638.90 by drawing remuneration from 23.08.84 to 13.09.85.*

3. The applicant during the course of inquiry, demanded certain copies of relevant documents upon which reliance was placed for proving the charges and also prayed for providing the assistance of a defence counsel. The administration did not give any heed to his demand and proceeded with the inquiry and issued the order of punishment dated 20.04.91 and 11.07.91. The applicant states that the order of dismissal is mala fide, arbitrary and violation of principles of fair play and natural justice. The appeal was also disposed of by the appellate authority without any application of mind.
  
4. The respondents in their reply have stated that the inquiry was conducted in accordance with the rules after



Article II.

Optional incorporation by statute, unless in that State  
Whichever the majority has in number of the Senate and City (by  
binding itself by stipulation) sans troupe to the most necessary  
author in the Republics as a County upon any boundary the  
same for duly incorporated in Western Republics which City  
Singly legislator (Count) Amalgamate stipulation

Article III.

Optional Western Republic in the State Whichever  
Whichever the Senate stipulation may, this City shall  
represented (Constitution) W. B. Amalgamate by combining the  
people service City and districts the Republics of the time of  
Rs.0038.80 by dividing into 33.80.84 to  
10.00.00

3. The applicant during the course of inquiry, demanded  
certain copies of relevant documents upon which release was  
granted for printing the questions and also placed for providing  
the assistance of a referee committee. The application with the  
for the sum paid to the demand and proceeded with the  
individually and issued the order of punishment dated 20.04.01  
and 10.7.11. The applicant states that the order of punishment  
in most likely spirally and various of printing of first by  
and printed in India. The applicant as also disposed of by the  
appellee authority without any application of India

4. The respondents in their reply have stated that the  
individually was conducted in accordance with the rules after

giving due opportunity to the applicant and therefore, the punishment order is in accordance with the rules.

5. Mr. Jadav, counsel for the applicant submits that the applicant was not given a copy of the inquiry report and this is in violation of the Judgment of the Supreme Court in Ramzankhan's case.

He also referred to the instructions issued by the Railway Board for furnishing a copy of the inquiry report after the conclusion of the inquiry (vide page 23~~3~~ of the Railway Servants (Discipline and Appeal) Rules 1968 published by the Bahri Brothers {4<sup>th</sup> Edition}). The same reads as follows : " ~~it~~ it would be necessary and essential in compliance of natural justice that a copy of the inquiry report must be given to the delinquent. He may show that the Enquiry Officer has taken extraneous matters into account or has not appreciated the evidence properly or some other flaws in his findings. This will enable the disciplinary authority to consider the inquiry report in its proper perspective. So they believe that a copy of the report must be given to the delinquent before imposing penalty."

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6. In the case of Ramjankhan, the Hon'ble Supreme Court has authoritatively held that the copy of the inquiry report must be furnished before the order of punishment is made. This Judgment is dated 17.11.90. In the present O.A, the punishment order is dated 20.04.91 vide Annexure A/12. As the punishment order was issued much after the pronouncement of the Judgement of the Supreme Court in Ramjankhan 's case, Mr. Jadav submits that the entire punishment order and the appellate order is liable to be quashed on this ground alone.

7. Mr. Shevde, the counsel for the respondents, is not able to show that the inquiry report was infact furnished to the applicant before the imposition of the punishment order dated 20.04.91 (Annexure A/12).

8. We have carefully considered the submissions of both counsel. The punishment order reads as follows :-

1. *You are hereby informed that the following penalty has been awarded to you :*

"DISMISSAL FROM RAILWAY SERVICE WITH IMMEIDATE EFFECT".

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2. *You are required to acknowledge receipt of this notice on the form subjoined.*
9. The records of the respondents including the punishment order do not indicate that the inquiry report was furnished before the imposition of punishment. In the circumstances, we hold that the entire inquiry has been vitiated on account of this lapse. On this ground alone, the O.A is required to be allowed. In the circumstances, we do not propose to go into other questions raised in the O.A. As the Articles of charge are of serious nature, we do not propose to quash the entire proceedings. We therefore, allow the O.A and quash the punishment order dated 20.04.91 and 11.07.91 and the appellate order dated 13.11.92 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

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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 further period of six months from the date of receipt of a copy of this order. We also direct that the applicant shall fully co-operate with the disciplinary authority in finalising the matter without any delay. With the above directions, the O.A is finally disposed of. There will be no order as to costs.

*m/spl*  
(M. P. Singh)  
Member (A)

*P Kannan*  
(P. C. Kannan)  
Member (J)

Mb

FORM NO. 21

( See Rule 114 )

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AHMEDABAD BENCH

OA/TA/RA/CP/MN/PT 52193 of 2000

Mr. Neelchhaen, M. APPLICANT (S)

## VERSUS

4.0-1.200

RESPONDENT (S)

## INDEX SHEET

Certified that the file is complete in all respects.

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28/07/24

Signature of S.O. (T)

Signature of Deal Hand.