

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH
Circuit Bench: NagpurO.A. No.
T. A. No. 537

1987

DATE OF DECISION 15-11-91

Vaibhavita Ramsa Karmare PetitionerMr. A-S. Bhandarkar Advocate for the Petitioner(s)

Versus

Union of India & Others RespondentsMr. Ramesh Darda Advocate for the Respondent(s)

CORAM By Hon'ble Mr. Justice V.C. Srivastava, V.C.

The Hon'ble Mr. Justice V.C. Srivastava, V.C.

The Hon'ble Mr. M. Y. Prakhar, Member(A)

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

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, BOMBAY BENCH
CIRCUIT BENCH : NAGPUR

Transfer Application No. 537 of 1987
In
Original Application No. 662 of 1986

Vaikuntha Ramsa Kumare Applicant
Vs.
Union of India & Others Respondents

Hon'ble Mr. Justice U.C.Srivastava, V.C.

Hon'ble Mr. M.Y. Priolkar, Member (A) Dated 15/11/91

(By Hon. Mr. Justice U.C.Srivastava, V.C.)

This is a transferred case under Section 29 of the Administrative Tribunals Act, 1985. The applicant who was working as a Machinist with the General Manager, Ordnance Factory, Ambazari, Nagpur filed a suit in the Court of Civil Judge, Senior Division, Nagpur against the removal order dated 29.5.1985. The applicant filed a suit under Section 80 of the Civil Procedure Code. The applicant who was earlier given a minor punishment for being absent from duty, while this time removed from services for being unauthorisedly absent, misamounted to gross mis-conduct. The applicant's case was that he was ill and had become mentally deranged. A plea which was taken later on, but not in the certificate which was filed by the applicant, and that is why he could not join his duty. Although the applicant has challenged the enquiry proceedings on variety of grounds but there appears to be no dispute that the Enquiry Officer after holding the enquiry in which the applicant did not participate till the end was not given the copy of the Enquiry Officer's report either by the Enquiry Officer or by the Disciplinary Authority. The Enquiry Officer's report was treated to be confidential

and as a confidential document it was sent to the Disciplinary Authority. The Disciplinary Authority removed the applicant from service.

2. ^{going} Without ~~tenting~~ into other question it is to be noticed that this application deserves to be allowed on this ground itself that the applicant was deprived making effective representation against the Enquiry Officer's report and that would have given an opportunity to challenge the enquiry proceedings before the Disciplinary Authority, and to have a say also against not only the disciplinary proceedings but also to the proposed punishment. This violated the principle of natural justice as has been held in the case of Union of India Vs. Mohd. Ramzan Khan, AIR 1990(1) SC page 471. In which it has been held that whenever an Enquiry Officer is appointed and enquiry has been held and the Enquiry Officer submitted his report to the Disciplinary Authority holding the delinquent employee to be guilty of the charges against him and proposing the punishment, the giving of Enquiry Officer's report to the employee concerned is a must, and in case if it is not given ~~would~~ ^{So as to} enable him to make effective representation ~~against~~ the same, the same violates the principle of natural justice, and vitiates the enquiry. The same position arises in this case also.

3. Accordingly this application deserves to be allowed and the impugned orders dated 30.9.83 and 29.5.85 are quashed. The applicant will be continued in service and intitled to the benefit which under the law he intitled too. It is for the respondents to treat the entire period as diasnon and not to pay salary to him. But the applicant as deemed ^{to} continue

in service ^{and} will be allowed to continue in service with all consequential benefits. However this judgment will not preclude the respondents from holding the enquiry against the applicant beyond the stage of giving of Inquiry Officer's report to the applicant giving reasonable time to file representation against the same. There will be no order as to costs.



Member (A)



Vice-Chairman.

15th November, 1991, Nagpur

(sph)