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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY 400614

O.A.NOs. 261/86; 400/87 & 401/87

O.A. NO. 261/86

Shri Mamraj Z. Parcha
C/o. Pratiraksha Mazdoor Sangh
H 28/5 Ordnance Estate
Ambernath
Dist. Thane 421 502 — Applicant

V/s

General Manager
Machine Tool Prototype Factory
Ambernath — Respondent

O.A. NO.400/87

Shri Madhukar Keshav Budhkar
C/o. Pratiraksha Mazdoor Sangh
H.28/5 Ordnance, M.P.F.
Ambernath Estate
Ambernath
Dist. Thane — Applicant

V/s

1. General Manager
Machine Tool Prototype Factory
Ambernath
Dist. Thane 421 502

2. Director General
Ordnance Factories
South Block: New Delhi — Respondents

O.A. NO. 401/87

Shri Nelson J. Mothis
C/o. Pratiraksha Mazdoor Sangh
H.28/5 Ordnance Machinetool
Prototype Factory
Ambernath Estate
Ambernath
Dist. Thane 421502 — Applicant

V/s

1. General Manager
Machine Tool Prototype Factory
Ambernath
Dist. Thane 421 502

2. The Director General
Ordnance Factories
Ministry of Defence
Government of India
South Block
New Delhi — Respondents

Coram : Hon'ble Chairman Shri K. Madhava Reddy
Hon'ble Member (A) S.D. Prasad

Appearance:

Shri S R Atre
(for Shri P M Pradhan)
Counsel
for the Respondents

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ORAL JUDGMENT DATED:30.9.1988

(Per: K. Madhava Reddy, Chairman)

The three applications inter alia raise the question whether the disciplinary proceedings which ended in imposing a penalty on the applicamts could be upheld when admittedly the report of the Inquiry Officer was not furnished to the appliants and they were not given an opportunity to make representations to the Disciplinary Authority. A Full Bench of this Tribunal in P.K. Sharma Vs. Union of India by its judgment dated 6th November, 1987 has held that the disciplinary proceedings in which a penalty is imposed against a public servant without furnishing him a copy of the Inquiry Officer's Report would be violative of the provisions of Article 311 of the Constitution. Bound as we are by the Full Bench judgment, we have to quash the findings recorded in the proceedings as also the penalty imposed. They are accordingly quashed.

We may also note that in respect of the very same charges criminal case was filed against these petitioners and without waiting for the result of the criminal case the disciplinary proceedings were initiated and completed. The petitioners took an objection that until the criminal cases are disposed of, the disciplinary proceedings should be adjourned. They also prayed that they must be furnished with the documents and translations thereof for they cannot follow the proceedings conducted in English. The further objection taken by them was that even if the disciplinary proceedings were to be taken, he cannot be compelled to participate when the criminal case is still pending. These objections were over-ruled. When the Inquiry Officer proceeded with the inquiry the applicants did not participate and the disciplinary proceedings were held ex-parte. The contention that in these circumstances the proceedings could not be treated as valid is not without substance. However, in the view we have taken, we express no opinion on these other contentions. Suffice to direct that the penalty imposed on the petitioner

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is set aside and that he shall be reinstated in service. However nothing said herein shall preclude the respondents from taking up the proceedings afresh in accordance with law. If on consideration of the facts and circumstances of this case the respondents choose to drop the proceedings, the matter ends there. In the event of the respondents deciding not to drop the proceedings, they shall furnish a copy of the Inquiry Officer's Report to the Petitioner and given him an opportunity to make his representation before recording the findings. They shall also consider the other objections raised by the petitioner. In this context it will not be out of place to mention that the criminal case launched in respect of these very charges has by now ended in acquittal and that order has become final. That fact also shall be kept in view in deciding whether the proceedings should be dropped or not. Subject to the above observations, these applications are allowed and the findings on the charges and the penalty imposed are quashed. There will be no order as to costs.

Contempt Petition
No. 47/88