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CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

[REDACTED]
[REDACTED] BOMBAY BENCH

O.A. No. 609 1987
~~T.A. No.~~

DATE OF DECISION 07.10.1991

Sayed Mohd. Ali Sayed Badeshah
Petitioner

Mr. A.S. Khedekar Advocate for the Petitioner(s)

Versus

Union of India and others
Respondent

R.K. Shetty Advocate for the Respondent(s)

CORAM :

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

The Hon'ble Mr. M.Y. Priolkar A.M.

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

Law

5

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Original Application No.609 of 1987

Sayed Mohammad Ali Sayed Badeshah
age 52 years, occupation-Service
as Supervisor (Tech.) Section
Ammunition Factory, Kirkee, Pune
411003 Applicant.

Versus

Union of India (Notice to be served upon
the Secretary to the Govt. of India
Ministry of Defence, New Delhi
and others Respondents.

Coram: Hon'ble Vice-Chairman, Shri U.C. Srivastava,
Hon'ble Member(A), Shri M.Y. Priolkar.

Appearances:-

Applicant by Mr. A.S. Khedekar
Respondents by Mr. R.K. Shetty

Oral Judgment:-

(Per Shri U.C. Srivastava, Vice-Chairman) Dated 07.10.1991

The applicant who was working as Supervisor (Technical) Section, Ammunition Factor, Kirkee, Pune has approached to this Tribunal against the penalty which was given to him by the Disciplinary Authority and reduced by the Appellate Authority. The Disciplinary Authority after enquiry has passed an order of compulsorily retiring him from service while the Appellate Authority has reduced the punishment imposed on him by stoppage of his three increments with cumulative effect with the inter-vening period from the date of penalty appeal against which the appellant ^{joins duty} ~~grants two weeks~~ to be treated as ^{act till} ~~or as not~~ ^{dis-non}. It appears that his absence which was taken to be un-authorised absence, the applicant was charge-sheeted in the month of August, 1985 and an Enquiry Officer was appointed and enquiry proceeded. The applicant submitted his reply to the Disciplinary Authority and

(6)

- 2 -


thereafter came to the conclusion that all the charges against the applicant were established and submitted his report to the Disciplinary Authority. Neither the Enquiry Officer nor the Disciplinary Authority gave the copy of the Enquiry Officer's report to the applicant so as to enable him to file a representation against the proposed punishment. The Disciplinary Authority passed the punishment order and against which, the applicant has filed an appeal and in appeal also he states that he was not given a copy of the Enquiry Officer's report and the Disciplinary Authority did not give an opportunity to file a representation against the same. The Appellate Authority also did not enter into that question ^{though} ~~to~~ ~~reduce~~ ^{raised by} the applicant. On behalf of the applicant, apart from other grounds, this is one of the grounds which has been taken for assailing the two orders. The contention on behalf of the applicant is correct in as much as ~~the contention on behalf~~ ~~of~~ the applicant was deprived from making effective representation against the findings of the enquiry officer and the proposed punishment. Thus he was deprived from the reasonable opportunity to defend his case in violation of the principles of natural justice as has been held by the Hon'ble Supreme Court in the case of Union of India Vs. Mohd. Ramzan Khan A.I.R. 1991(SC).471. In this view, the application deserves to be allowed and the order of the competent authority dated 31.12.1985 and the appellate order dated 22.7.1987 be quashed and the applicant would be deemed to be continuing in duty with all benefits. However, this will not preclude ^{the disciplinary authority from continuing} the disciplinary proceedings beyond the stage of giving the enquiry officer's report to the applicant by giving him reasonable time to file a representation against the same and thereafter to pass an order in

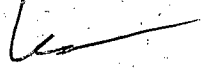
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(7)

- 3 -

accordance with law. The application is disposed of as above with no order as to costs.


Member (A)


Vice-Chairman

Bombay Bench.

(n.u.)