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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**NEW BOMBAY BENCH****O.A. No.
T.A. No. 49/88****198****DATE OF DECISION** 26-4-1991Shri Pralhad Tanku Koli**Petitioner**Shri V.K.Pradhan**Advocate for the Petitioner(s)****Versus**Union of India**Respondent**Shri P.R.Pai**Advocate for the Respondent(s)****CORAM****The Hon'ble Mr. Justice U.C.Srivastava, Vice-Chairman****The Hon'ble Mr. M.Y.Priolkar, 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 ?

(12)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH
NEW BOMBAY

TR.No. 49/88

Shri Pralhad Tanku Koli,
Ex-Railway Servant,
R/o R.B.I., 742,Chandmari,
Bhusaval.

..... Applicant

vs

The Union of India,
Representing the Railway
Administration,
(Summons to be served to the
General Manager, Central Railway
Bombay V.T.)

..... Respondent.

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

Dated: 26-4-1991

Appearance

Mr. V.K.Pradhan, Adv.
for the applicant

Mr. P.R.Pai, Adv.
for the respondents.

ORAL JUDGMENT

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

This application has been transferred to this
Tribunal under section 29 of the Administrative Tribunal Act
1985. The applicant joined the Railway services in the
year 1975 and at the relevant point of time was working
as Gangman. For his absence from duty he was chargesheeted.
After departmental enquiry it was found that he was absent
from duty during the period from 16.6.1975 to 28.7.1975
as such he was removed from service by the disciplinary authority. The applicant approached the higher authority

of department against the punishment but his representation was rejected. Thereafter, he filed a Civil Suit claiming relief against removal order. The said suit was dismissed by the IIIrd Jt.Civil Judge, Bhusaval vide judgement and order dated 29.7.1985, against the same judgment the applicant had filed an appeal which was transferred to this Tribunal. The case of the applicant in suit and his defence before the departmental authority was that he received an information on 15.6.1975 that his brother is seriously sick, he proceeded to his native place Datala, Tal. Malkapur to see him but ultimately the brother expired on 25.6.1975. While he was still performing certain ceremonies in connection with his brother's death, his niece fell ill and she too died on 8th July 1975 and as a result of mental shock, depression, and infirmness of his mind he could not move out to resume his duties earlier. The applicant reported ~~the~~ for duty on 1.8.1975 and on 18.9.1975 he was served a chargesheet. The proceedings before the enquiry officer and punishment awarded and the judgement of the Civil judge has been assailed mainly on the ground that the entire disciplinary proceedings were in violation of rules/as well as offended the principles of natural justice. The chargesheet proceeding/was in English and were conducted in English language whereas he only knew Hindi and Marathi. According to applicant the chargesheet being in English, this he could not understand its true and correct meaning and so was the case with the proceeding taken by

enquiry officer which were in English. From the questions which were asked by the Enquiry Officer and the reply given by applicant, the Civil Judge inferred that the applicant was aware of the entire proceeding and no prejudice was caused. Even the principles of natural justice, required that the inquiry should have been conducted in a language which was known to the chargesheeted employee and not in a language not known to him. The other grievances of the applicant is that he was not allowed to tender evidence and documentary evidence tendered by him, it was not registered on record. In defence he wanted to submit death certificates of brother and niece, but the same were not allowed to be produced by the inquiry officer and the Civil Judge was of the opinion that these documents were not filed earlier and were not to be considered. But, even if, these documents were not taken into account, but admittedly before the Enquiry Officer and Civil Judge the uncontraverted statement by the applicant in this behalf was on the record. The death in the family were unchallenged fact and these documents only were additional piece of evidence proving the same. No one would have stated regarding such deaths if the same were not a fact. In view of the explanation which was before the Disciplinary Authority or before the Departmental Authority or even before the Civil Judge they wrongly ignored such a patent fact which stood fully established. In this view the entire proceedings stand vitiated because of non-observation of the rule

regarding handling of departmental enquiry, denial of reasonable opportunity to defend and non consideration of the evidence on the record, brushing aside the uncontroverted statement of the applicant. In these circumstances the application deserves to be allowed. Accordingly, this application is allowed and the dismissal order dated 3-2-76 is quashed. It is declared that the applicant will continue to remain in service with consequential benefits which he may be entitled to receive. There will be no order as to costs.

M.Y.Priolkar
(M.Y.Priolkar)
Member(A)

U.C.Srivastava
(U.C.Srivastava)
Vice-Chairman