

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A. No. 232/86

198

XXX

DATE OF DECISION 3.2.1992

K. B. Pol

Petitioner

Mr. G. K. Masand

Advocate for the Petitioner(s)

Versus

Development Commissioner, SEEPZ Respondent

Mr. A. I. Bhatkar

Advocate for the Respondent(s)

## CORAM :

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

The Hon'ble Mr. M.Y. Priolkar, M(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?

MGIPRRND-12 CAT/86-3-12-86-15,000

( U.C. Srivastava )  
V/C

(13)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, BOMBAY

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Original Application No.232/86

K.B. Pol, Security Guard,  
No.A-2/26 SEEPZ Staff Quarters,  
Ancheri (E),  
Bombay 400 093.

... Applicant

v/s

Development Commissioner,  
SEEPZ, Ancheri (E),  
Bombay 400 093.

... Respondent

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

Appearances:

Mr. G.K.Masand, Advocate  
for the applicant and  
Mr. A.I.Bhatkar, Counsel  
for the respondent.

ORAL JUDGMENT:

Dated : 3.2.1992

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

The applicant is a Security Guard in the Office of the Development Commissioner. The applicant was charge-sheeted on 1st October, 1982. Three charges were levelled against the applicant. The first was that he was in unauthorised possession of two ceiling fans inside the Zone which he took out of the Zone eventually and the second was that he assaulted a colleague who was on duty and the third was that he mis-behaved with his superior. A departmental enquiry proceeded against the same and the Inquiry Officer came to the conclusion that the applicant was guilty of the charge No. 2 & 3 and the charge No.1 was not proved against him. On the basis of the findings of the Inquiry Officer the disciplinary authority awarded him minor punishment of withholding one increment for a period of one year without affecting his future increments. Thereafter the entire period was treated to be suspension period and the salary was not paid to the applicant. Applicant filed appeals against both the orders separately.

Both these appeals were dismissed on different dates in the month of December 1985. Thereafter the applicant has approached the Tribunal challenging the enquiry proceedings and the order by which he has been deprived ~~the~~ of the salary during the suspension period. So far as the enquiry proceedings are concerned we have not been able to get any flaw on the ground. The applicant has also failed to prove that there was any malafide on the part of the officer or the disciplinary authority who gave him the minimum punishment and accordingly no interference in the same is possible. But so far as the period under suspension is concerned in view of the Department of Personnel & Training O.M. No.11012/15/85-Est. (A) dated 3.12.1985 the appellate authority could have considered the said view before deciding the appeal which was decided on 11.12.85. Although the punishment order was passed before issuance of the said notification but when the appeal was decided this notification was in existence and the appellate authority, it seems, overlooked the same. Accordingly this application deserves to be allowed in part and the ~~and~~ ~~the~~ appellate authority is directed to pass an order in confirmity with the O.M. dated 3.12.1985. Let an order be passed within a period of one month from the date of communication of this order. No order as to costs.

  
( M.Y. Priolkar )  
Member(A)

  
( U.C. Srivastava )  
Vice-Chairman