

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A. No. 841/89

198

~~T.A. No.~~DATE OF DECISION 3-10-1991Shantaram Raghunath

Petitioner

Mr. L.M. Nerlekar

Advocate for the Petitioner(s)

Versus

The Divl. Rly. Manager, CR, Bombay VT

Respondent

Mr. J.G. Sawant

Advocate for the Respondent(s)


CORAM :

The Hon'ble Mr. M. Priolkar, Member(A)The Hon'ble Mr. B. Reddy, Member(J)

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether the order to be circulated to other Benches of the Tribunal? *No*

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MD


 (M. Y. PRIOLKAR)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

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O.A.841/89

Shantaram Raghunath
Rabodi Koliwada
Depase Apartments
Building No.3,
Thane.

.. Applicant

vs.

The Divisional Railway Manager,
Central Railway,
Bombay V.T.

.. Respondent

Coram: Hon'ble Shri M.Y.Priolkar, Member(A)

Hon'ble Shri T.C.Reddy, Member(J)

Appearances:

1. Mr.L.M.Nerlekar
Advocate for the
Applicant.
2. Mr.J.G.Sawant
Counsel for the
Respondent.

ORAL JUDGMENT:
(Per M.Y.Priolkar, Member(A))

Date: 3-10-1991

The services of the applicant in this case were terminated on the ground that he had produced a forged labour card. According to the applicant this was done without holding any inquiry and without any chargesheet and therefore he filed a Writ Petition ~~222~~ No.932 of 1985 in the High Court against the order of removal from service which was dismissed by a single Judge ~~who~~ but on appeal he was reinstated in service. The High Court had directed the respondents to hold the inquiry and to present the inquiry proceedings before them and till then the appeal was kept pending. According to the applicant no action was initiated against him and ultimately ^{the High Court} directed the respondents to reinstate the applicant with all benefits.

2. A chargesheet was served on the applicant on 9-7-1986. An inquiry was held and the Inquiry Officer submitted a report holding the applicant guilty of committing fraud of producing forged labour card in order ^{to} secure job as Khalasi. Agreeing with the Inquiry Officer the Disciplinary Authority imposed the penalty of removal from service on the applicant by order dtd. 19-5-1989. He submitted an appeal against the removal order which was dismissed by the appellate authority by order dtd. 5-9-1989.

3. Both the disciplinary authority's order and the appellate authority's order have been challenged by the applicant on various grounds in this application. However, after going through the record and hearing the learned counsel on both the sides, we are of the view that the applicant deserves to ~~be succeeded~~ on the ground alone ^{of} ~~for~~ non-furnishing ^{of} the Inquiry Officer's report prior to the imposition of the penalty. Admittedly, a copy of the Inquiry Officer's report was furnished to the applicant only alongwith the removal order dt. 19-5-1989. It is now settled after the Supreme Court decision in the case of Union of India v. Mohd. Ramzan Khan, AIR 1991 SC 471 that wherever an inquiry has been held and the Inquiry Officer holds the delinquent official guilty of the charges a copy of the inquiry report shall be furnished to the delinquent official prior to the imposition of the penalty so that he is enabled to make a representation against the findings in the inquiry report. Supreme Court has also held in this case that non compliance with this requirement shall be violative of principles of natural justice.

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4. Admittedly in the present case a copy of the inquiry report has been furnished not prior to the imposition of the penalty but along with the order imposing the penalty on the applicant. Accordingly ~~the~~ the penalty order as well as the appellate order are liable to be set aside as violative of principles of natural justice and we do so. However the respondents shall have the liberty to proceed with the disciplinary proceedings from the point the illegality of non furnishing of the inquiry report has occurred. The applicant shall be entitled to all consequential benefits in accordance with law. There shall be no order as to costs.

T. Chandrasekaran
(T.C. REDDY)
Member(J)

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

MD