

(6)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. NO: 610/89

199

~~TA No.~~

DATE OF DECISION 13.2.1991

Keshav Balkrishina Maistry

Petitioner

Mr. D.V.Gangal

Advocate for the Petitioners

Versus

Union of India & Ors.

Respondent

Mr. V.S.Masurkar

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 ? *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*

mbm*


(U.C.Srivastava)
V/C

(7)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

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Original Application No.610/89

Keshav Balkrishina Maistry ... Applicant

V/s

Union of India & Ors. ... Respondents

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

Appearances:

Mr. D.V.Gangal, Advocate
for the applicant and
Mr. V.S.Masurkar, Counsel
for the respondents.

ORAL JUDGMENT:


Dated : 13.2.1992


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

This application is directed against the order of removal dated 13.3.1989 against which the applicant filed an appeal and the appeal was also dismissed on 22.6.1989. The applicant was working in the Naval Dockyard, Bombay when the removal order was passed. The applicant was appointed on casual basis as Carpenter on 13.3.1973 and appointed on regular basis on 15.7.1975. He was promoted as High Skilled Carpenter Grade-I in the year 1979. According to him ~~it~~ it is because the applicant was made by the department as a scape goat in respect of his Union activities and a charge sheet was issued to him on 5.12.1987 charging him for participating in a violent demonstration inciting the workers and throwing stones in front of ASD's office resulting ⁱⁿ damages to the Government properties viz. office windows, Car, punching clock etc. and two other charges connected to the same. An Inquiry Officer was appointed and the applicant submitted his reply. According to the applicant he was not allowed the defence assistant and he could not participate in the

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enquiry and yet the Inquiry Officer concluded the enquiry behind his back and the disciplinary authority on the basis of the Inquiry Officer's report passed the removal order. The respondents have refuted this allegation of the applicant and stated that the applicant participated in the enquiry and it is incorrect to state that no opportunity was given to him. The applicant has challenged the removal order on a variety of grounds. One of the grounds taken by the applicant is that the Inquiry Officer's report was not given to him which would have given an opportunity to raise an effective representation against the enquiry proceedings and the punishment given to him. The requirement of giving the Inquiry Officer's report to enable him to make an effective representation against the proceedings and the punishment is a requirement of principles of natural justice. Whenever an enquiry is held and the Inquiry Officer proposes a punishment and the disciplinary authority punishes the employee the nongiving of the enquiry report vitiates the proceedings and the punishment order as has been held by the Hon'ble Supreme Court in the case of Union of India vs. Mohd. Ramzan Khan, AIR 1991 SC 471. ~~In view of the fact that~~ the applicant was not given reasonable opportunity to defend himself the principle of natural justice is violated and the punishment order cannot be sustained. Accordingly this application is allowed and the removal order dated 13.3.1989 and the appellate order dated 22.6.1989 are quashed. However it is made clear that it will not preclude the disciplinary authority from going ahead with the disciplinary proceedings beyond the stage of giving the Inquiry Officer's report to the applicant giving him reasonable time to file objections against the same. No order as to costs.


(M.Y. Priolkar)
Member(A)


(U.C. Srivastava)
Vice-Chairman