

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

CAMP AT PANAJI

O.A. NO:

879/89

199

T.A. NO:

DATE OF DECISION 27.8.1991

Shri Dr. Prakash Subray Kurade.
Petitioner

Shri Pai Patnekar.

Advocate for the Petitioners

Versus

Union of India & Ors.

Respondent

Shri H.R. Bharne.

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 ?

mbm*

(U.C. SRIVASTAVA)
VICE-CHAIRMAN.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY.
CAMP AT PANAJI.

Original Application No. 879/89.

Dr. Prakash Subray Kurade. ... Applicant.

V/s.

Union of India & Ors. ... Respondents.

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

Appearances:-

Applicant by Mr. Pai. Patnekar.

Respondents by Mr. H.R. Bharne.

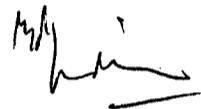
Oral Judgment:-

(Per Shri Justice U.C.Srivastava, Vice-Chairman) Dt. 27.8.1991.

The applicant who was a Registrar in the Goa Medical College was charge sheeted. An Inquiry Officer was appointed and the applicant submitted his defence. The applicant raised certain grievances in respect of the opportunity which was given to him to defend his case which according to him was not reasonable. The inquiry officer found him guilty and recommended his dismissal and thereafter the disciplinary authority dismissed him from service. One of the grievances raised by the applicant is that the Enquiry Officer's report was not furnished to him and the same was given with punishment order only. He made efforts to get enquiry officer's report which would have enabled him to file an appeal but that too was not given. As the Enquiry Officer's report was not given the applicant was disabled from making any effective representation or appeal. This was in violation of principles of natural justice and vitiates the punishment. In this connection reference may be made to the Supreme Court decision in Union of India v. Mohd. Ramzan Khan's case A.I.R. 1991 S.C. page 491, wherein it has been held that wherever an inquiry has taken place and the Enquiry Officer has given a report, it is obligatory to give a copy of the report to the delinquent officer and if that is not done it violates the principles of natural justice and

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vitiates the inquiry. The additional government advocate contended that the Ramzan Khan's case has got only prospective effect and not retrospective effect. We have also already considered this question and we have taken a view that all the pending cases will come within the phrase prospective effect and not retrospective effect and accordingly this application deserves to be allowed and the dismissal order dt. 10.4.1987 is quashed. The applicant will be deemed to be on duty, entitled to all consequential benefits. However, it is being made clear that it will be open for the respondents to proceed further with the inquiry from the stage of supply of Inquiry Officer's report to the applicant. No order as to costs.



(M.Y. PRIOLKAR)
MEMBER (A)



(U.C. SRIVASTAVA)
VICE-CHAIRMAN

B.S.M.