

(11)
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

O.A.90/89

Yashwant Vithu,
Umberpada,
Dist.Thane 401 102.

.. Applicant

vs.

1. Union of India,
through
The General Manager,
Western Railway,
Churchgate,
Bombay - 400 020.

2. Divisional Signal Telecommunication
Engineer(II),
Bombay Central Railway Station,
Bombay - 400 008.

.. Respondents

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

Appearances:

1. Mr.D.V.Gangal
Advocate for the
Applicant.
2. Mr.N.K.Srinivasan
Advocate for the
Respondents.

ORAL JUDGMENT:

Date: 3-6-1991

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

The applicant in this case was served with a chargesheet on 3-6-1986 for unauthorised absence from duty with effect from 24-4-1986 and non-observance of certain rules. After conducting an enquiry in accordance with Railway Servants Disciplinary and Appeal Rules the applicant was removed from service by order dated 21-3-1988. His further appeal to the Appellate Authority dtd. 4-5-1988 was rejected by order dated 30-5-1989. The prayer in this application is for quashing this order of removal from service on the ground that there was violation of the principle of natural justice as a copy of the Inquiry Officer's report was not furnished to the applicant by the Disciplinary Authority before passing the order of penalty and also on certain other grounds like the penalty order being

passed by an authority lower in rank than the appointing authority, the enquiry proceedings being vitiated on the ground that the findings reached by the Inquiry Officer are perverse and not ^{by evidence} warranted, etc.

2. As held by the Supreme Court in Mohammed Ramzan Khan's case reported in 1990(4) Judgments Today and also by the Full Bench in P.K.Sharma's case(1988(6) ATC 904) it was essential for the Disciplinary Authority to furnish a copy of the Inquiry Officer's report prior to imposing penalty of removal from service and the appellate authority's order has to be quashed on this ground alone. However, since the Inquiry Officer's report is now available with the applicant, it will be sufficient if we set aside the order of the appellate authority in this case and remand this case back to the appellate authority for de-novo consideration of the appeal made by the applicant after taking into account also the points raised by the applicant in this application with a direction to pass a reasoned and speaking order after giving an opportunity of personal hearing also to the applicant. This may be done by the appellate authority within a period of three months from the date of receipt of this order. It is not necessary for us to enter into a discussion about the other points raised in the pleadings of the parties in view of the direction that we have given above. This application is disposed of accordingly with no order as to costs.

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

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