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CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

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NEW BOMBAY BENCH

O.A. No. 761/89
TxXXXNx

198

DATE OF DECISION 12.8.1991

Suresh Ram Sakal Ram Petitioner

Mr. L.M.Nerlekar Advocate for the Petitioner(s)

Versus

Divl. Rly. Manager, Bombay V.T. Respondent

Mr. J.G.Sawant Advocate for the Respondent(s)

CORAM :

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

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? *✓*

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


(U.C.Srivastava)
V/C

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

Original Application No. 761/89

(X)

Suresh Ram Sakal Ram,
Khalasi,
C.W.S., Kurla.

... Applicant

V/s

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

... Respondents

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

Appearances:

Mr. L.M.Nerlekar, Advocate
for the applicant and
Mr. J.G.Sawant, Advocate
for the respondents.

ORAL JUDGEMENT:

Dated : 12.8.1991

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

The applicant who was a Khalasi under C.W.S. Kurla, Central Railway, is challenging the order of removal from service dated 19.5.1989 passed by the Disciplinary Authority and the appellate order dated 5.9.1989. The applicant's case is that his services were terminated without any charge sheet or any enquiry. The applicant filed a Writ Petition which was allowed. It was thereafter that a charge sheet was issued and the enquiry proceeded and the Inquiry Officer submitted his report to the Disciplinary Authority and the Disciplinary Authority relying on the same passed order of removal. The applicant filed an appeal which was dismissed. Thereafter he has approached the Tribunal. The applicant has challenged the enquiry proceedings on a variety of grounds including on the ground that the Inquiry

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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 principles of natural justice is violated and the punishment order cannot be sustained. Accordingly this application is allowed and the removal order dated 19.5.1989 and the appellate order dated 5.9.1989 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. There will be no order as to costs.


(M.Y. Priolkar)
Member(A)


(U.C. Srivastava)
Vice-Chairman