

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

(15)

O.A.447/89

V.S.Sharma,
C/o.Shri G.S.Walia,
Advocate,
89/10, Western Railway Employees
Colony,
Matunga Road,
Bombay 400 019.

.. Applicant

vs.

1. Union of India
through
General Manager,
Western Railway,
Churchgate,
Bombay - 400 020.
 2. General Manager,
Western Railway,
Churchgate,
Bombay - 400 020.
 3. Additional Divisional Railway Manager,
Western Railway
Bombay Division,
Bombay Central,
Bombay - 400 008.
 4. Senior Divisional Operating
Supdt.,
Bombay Division,
Western Railway,
Bombay Central,
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.G.S.Walia
Advocate for the
Applicant.
2. Mr.P.R.Pai
Advocate for the
Respondents.

ORAL JUDGMENT:
(Per U.C.Srivastava,Vice-Chairman)

Date: 20-8-1991

The applicant who is a central government employee of the Western Railway was chargesheeted and an Inquiry Officer was appointed. The applicant submitted written statement and the Inquiry Officer submitted his report, thereafter the Disciplinary Authority removed him from service. The applicant filed an appeal. Once the case was remanded back to

the appellate authority by the Tribunal and the Appellate Authority after hearing the applicant again dismissed the appeal. Thereafter the applicant has approached this Tribunal.

2. Apart from other pleadings one of the pleading raised in this case is that copy of the Inquiry Officer's report was not given to the applicant in order to enable him to file effective representation against the proposed punishment with the result he could not defend his case properly.

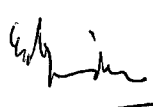
3. We had already disposed of a number of cases holding that the supply of Inquiry Officer's report is must and if ~~xxxx~~ ~~ixx~~ this is not done it offended the principles of natural justice and it affected employee's prejudice. In ~~one~~ case we have made reference to the following cases:

- (1) Full Bench of CAT in P.K.Sharma v. Union of India and Ors. ASLJ 1988(2)449.
- (2) A.Phillip v. D.G.of Ordnance Factories and others. AISLJ 1990(2)CAT 631.
- (3) Union of India and Ors. v. Mohd. Ramzan Khan, 1990~~(1)~~~~SC~~~~Ex~~~~100~~SC 56
- (4) Shri Balwant Singh Kumar Singh Gohil and Ors. v. Union of India and another O.A.209/87 decided on 11.7.91

and distinguished one case which was dismissed ~~that~~ on the ground that Article 311(2) after amendment no such notice is required. This question was considered by the Supreme Court in Union of India v. Ramzan Khan (Supra) and it was that it is not because of Article 311 but under the principle of natural justice giving of enquiry report is must.

4. Accordingly this application is allowed and the orders dated 1.6.1988 and 27.3.1988 passed by the Disciplinary Authority and the appellate authority are hereby quashed and set aside. We would clarify that

this decision may not preclude the disciplinary authority from reviving the proceeding and continuing with/it in accordance with law from the stage of supply of the inquiry report. There will be no order as to costs.



(M.Y. PRIOLKAR)
Member(A)



(U.C. SHIVASTAVA)
Vice-Chairman