

(6)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A. No. 500/89 198
 T.A. No.

DATE OF DECISION 9.10.1991

Shri A.M.Khan

Petitioner

Shri L.M.Nerlekar

Advocate for the Petitioners)

Versus

Union of India & Ors.

Respondent

Shri S.C.Dhawan.

Advocate for the Respondents)

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? *NO*
2. To be referred to the Reporter or not? *NO*
3. Whether their Lordships wish to see the fair copy of the Judgement? *NO*
4. Whether it needs to be circulated to other Benches of the Tribunal? *NO*

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


 (U.C.SRIVASTAVA)
 VICE-CHAIRMAN.

(8)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY.

Original Application No. 500/89.

Shri A.M.Khan.

... Applicant.

V/s..

Union of India & Anr.

... Respondents.

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

Appearances:-

Applicant by Mr.Nerlekar.

Respondents by Mr.S.C.Dhawan.

Oral Judgment:-

(Per Shri U.C.Srivastava, Vice-Chairman) Dt. 9.10.1991.

The applicant who was working as an Assistant Driver Goods Train at Kalyan was charge sheeted because he was involved in a case of side collision of the trains between Dombivali and Kalyan stations. An inquiry officer was appointed, the inquiry officer after inquiry submitted his report. The applicant has pointed out short comings in the inquiry proceedings. After the inquiry the enquiry officer submitted his report against the applicant, and on the basis of the said report the Disciplinary Authority passed the penalty order. The applicant filed an appeal against the same on 11.6.1986. The said appeal was rejected by the Appellate Authority vide order dt. 4.5.1987. The applicant has challenged the impugned order on variety of grounds and one of the grounds is that Enquiry Officer's report was not given to him to enable him to make a representation against it which has seriously prejudiced him. In case opportunity was given to him he would not have got the opportunity to submit that the Enquiry Officer's report was against the law and that he was not given opportunity of defending himself.

but he was deprived of the same and even the superior authority did not consider this aspect.

(2) The non-furnishing of inquiry report is denial of principles of natural justice as it has been held in the case of Union of India v. Mohammed Ramzan Khan (AIR 1991 SC 491) in which it has been held that wherever an inquiry officer submits his report against an employee the non-furnishing of the inquiry report to the delinquent employee to enable him to make a representation against the same will be against the principles of natural justice and vitiates the inquiry. The same is the position here and accordingly this application deserves to be allowed and the Appellate Order dt. 4.5.1987 is quashed. The applicant will be deemed to be in service. However, it is being made clear that this will not preclude the Disciplinary Authority from going ahead with the inquiry beyond the stage of giving Inquiry Officer's report to the applicant and to which he can file a representation against the same. No order as to costs.


(M.Y. PRIOLKAR)
MEMBER (A)


(U.C. SRIVASTAVA)
VICE-CHAIRMAN.

B.S.M.