

(9)

CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A. No. 100/89  
~~T.A. No.~~

198

DATE OF DECISION 23-9-1991

Antony Rappy Malayakal Petitioner

Mr.D.V.Gangal Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

Mr.R.K.Shetty 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? *AD*
2. To be referred to the Reporter or not? *P*
3. Whether their Lordships wish to see the fair copy of the Judgement? *AD*
4. Whether it needs to be circulated to other Benches of the Tribunal? *AD*

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

  
(U.C. SRIVASTAVA)

(10)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

O.A.100/89

Antony Rappy Malayakaal,  
3/18, NCH Colony, Pawai,  
Bhandup  
Bombay - 400 078.

.. Applicant

vs.

1. Union of India  
through  
The Flag Officer Commanding in Chief,  
Western Naval Command,  
Bombay - 400 023.

2. The Admiral Superintendent,  
Naval Dockyard,  
Lion Gate,  
Bombay - 400 023.

.. 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.R.K.Shetty  
Counsel for the  
Respondents.

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

Date: 23-9-1991

The applicant who was working in the Naval Dock Yard as highly skilled Boiler Maker(Grade-I) was chargesheeted. A domestic inquiry took place and the Inquiry Officer submitted his report to the Disciplinary Authority. The Disciplinary Authority concurring with the report of the Inquiry Officer passed an order on 27-9-1988 removing the applicant from service. The applicant filed an appeal against the same on 19-10-1988 which was also rejected. A review<sup>made</sup> against the same is pending. Without deciding the review the applicant was asked to vacate the quarter even though no eviction proceeding was taken against him. It was thereafter the applicant approached this Tribunal.

2. The applicant has assailed the order of eviction on various grounds. But his main challenge is to the disciplinary action taken against him. One of the plea taken by the applicant is that the Inquiry Officer's report was not given to him by the Inquiry Officer or by the Disciplinary Authority before awarding him the punishment which deprived him of an opportunity to make effective representation against the punishment order and this was violation of principles of natural justice.

3. The applicant's case is covered by the Supreme Court decision in Union of India vs. Mohd. Ramzan Khan, AIR 1991 SC 471 wherein it has held that "Wherever there has been an Inquiry Officer and he has furnished a report to the disciplinary authority at the conclusion of the inquiry holding the delinquent guilty of all or any of the charges with proposal for any particular punishment or not, the delinquent is entitled to a copy of such report and will also be entitled to make a representation against it, if he so desires, and non-furnishing of the report would amount to violation of rules of natural justice and make the final order liable to challenge hereafter."

4. Based on the above observation the application deserves to be allowed and accordingly the punishment order dtd.27-9-1988 is hereby quashed and set aside and the applicant will be deemed to be ~~in~~ continue in service with all consequential benefits. However, this will not preclude the Disciplinary Authority to proceed with the inquiry from the stage of supplying inquiry Officer's report to the applicant

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giving him reasonable opportunity to make representation against the same. There will be no order as to costs.



(M.Y. PRIOLKAR)  
Member(A)



(U.C. SRIVASTAVA)  
Vice-Chairman