

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. NO: 194/89
T.A. NO:

199

DATE OF DECISION 5.2.1992

Rancharan Gauda (ex.) Petitioner

MR. D. V. GANGAL. Advocate for the Petitioners

Versus

THE UNION OF INDIA and Ors. Respondent

MR. V. S. MASURKAR 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 ?
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 ?

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(U.C.SRIVASTAVA)
Vice-Chairman

mbm*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

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ORIGINAL APPLICATION NO. 194/89

PANCHANAN GAUDA (expired).
unskilled labourers
in the office of Naval
Dockyard Lion Gate, Bombay
Represented by LR Smt.P.Gauda

....applicant

v/s

The Union of India
and ors.

....respondents

CORAM : HON'BLE JUSTICE MR. U.C.SRIVASTAVA, Vice-Chairman,
HON'BLE MEMBER SHIR M.Y.PRIOLKAR, MEMBER(A)

Appearance:

Mr.D.V.Gangal, Adv.
for the applicant.

Mr.V.S.Masurkar, Adv.
for the respondents.

ORAL JUDGEMENT

5TH FEB 1992

(PER : U.C.SRIVASTAVA, Vice-Chairman)

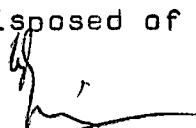
The applicant in this case was un-skilled labourer in the Naval Dock Yard, Bombay and having been removed from service, has approached this Tribunal. The applicant had studied upto 5th standard in Oriya medium and had initially been appointed as casual labourer in the Naval Dock Yard. According to the applicant, although there was no requirement at the time to produce a certificate for 5 or 6 years back, it appears that the chargesheet was issued to the applicant in the year 1985 and the ground which is adduced is that the school leaving certificate was brought by fraudulent means, and was false school leaving certificate. The Departmental Enquiry proceeded and the Enquiry Officer submitted the finding against the applicant and the report to the Disciplinary Authority. On the basis of the report submitted by the Enquiry Officer, the Disciplinary Authority passed the punishment order. The proceedings has been challenged on the one ground that the Enquiry Officer's report was not given to the applicant

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to file an effective representation against the same. In this connection, a reference has been made to the case of UNION OF INDIA V MOHAMMAD RAMZAN KHAN AND ORS, AIR 1991 SC 471, where in it has been held, " for doing away that the effect of the Enquiry Officer's report or to meet the recommendation of the Enquiry Officer, in the matter of imposition of punishment furnishing a copy of the report becomes necessary and to have proceedings ~~completing~~ by using some material on ~~behalf of~~ the back of the delinquent is a position not countenanced by fair procedure" And if the copy of the Inquiry report is not furnished to the applicant to make an effective representation, it violates the Principal of Natural Justice and vitiates the inquiry proceedings. The same existing in this case and as such the application ~~is~~ deserves to be allowed, and the impugned order dated 23.5.1988 is quashed.

2. During the pendency of this case the applicant is expired and the representation for legal heirship has been filed by his wife. As the applicant is no more, the enquiry does not take place hereinafter. The respondents are directed to treat the applicant to be in service till the date of his death and they will consider the question of appointment by appointing his widow or their child on compassionate ground taking that her husband was well in service. The delay in filing his application as well as representation for legal heirs is allowed as the explanation given is satisfactory.

3. With the above directions this application is disposed of with no order as to costs.


(M.Y. PRIOLKAR)
MEMBER (A)


(U.C. SRIVASTAVA)
VICE-CHAIRMAN