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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 233
~~T.A. No.~~

1989

DATE OF DECISION

8/10/91

F. Ardeshir

Petitioner

Mr. G.S. Walia

Advocate for the Petitioner(s)

Versus

Union of India and others

Respondent

Mr. P.R. Rai

Advocate for the Respondent(s)

CORAM

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

The Hon'ble Mr. M.Y. Priolkar ,A.M.

1. Whether Reporters of local papers may be allowed to see the Judgement ? *n*
2. To be referred to the Reporter or not ? *n*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *n*
4. Whether in needs to be circulated to other Benches of the Tribunal ? *n*

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, BOMBAY BENCH.

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Registration O.A. No.233 of 1989

F. Ardeshir, Ex-Driver, Grade-B
Bhusawal, Central Railway Applicant.

Versus

Union of India through General Manager,
Central Railway Bombay V.T. and others Respondents.

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

Appearances:-

Applicant by Mr. G.S. Walia,
Respondents by Mr. P.R. Pai


Oral Judgment:-

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

Dt: 08.10.1991

The applicant who was working as a Driver on Wadibunder Freight Chief Goods Train on 10.11.1969 was charged for causing an accident which took place on 10.11.1969. The applicant was charged under Sec. 304-A of the Indian Penal Code read with Section 101 of the Indian Railway Act. The applicant was ultimately ^{exonerated} ~~executed~~ in that case. He was placed under Suspension ^{on} 11.11.1969 but the said suspension was revoked on 15.2.1977 and he was allowed to do work upto 23.5.1988 when he was removed from service. A charge-sheet was served to the applicant by the department on 25.2.1986 charging him with serious negligence of duty. An Enquiry Officer was appointed in this case and the applicant has filed his written defence and it appears that the applicant has pointed out various ~~defence~~ ^{defences} & ~~flaws~~ ^{flaws} in the enquiry which, according to him, even was conducted in violation of the rules. A denovo enquiry was ordered and the applicant had to put his defence note before the enquiry officer including in which he even made a complaint of non-supply of relevant documents to him. The enquiry officer has submitted his report to the Disciplinary Authority holding the applicant guilty and thereafter the applicant was removed from service. The applicant has challenged his removal

on variety of the grounds. ~~that~~ One of the grounds on which the applicant has ~~been~~ challenged his removal order is that the enquiry officer's report was not given to him. From the pleadings, it is clear that the enquiry officer's report was given to the applicant ~~as~~ along with the removal order itself and not before them. Now the applicant was thus deprived from making effective representation against the report of the proposed punishment and thereby, he was deprived ~~from~~ ^{of} the reasonable opportunity to defend himself and the principles of natural justice was violative^{ed}. This question has now been decided by the Hon'ble Supreme Court in the case of Union of India Vs. Mohd. Ramzan Khan, A.I.R. 1991 (SC), 471. In this view, the punishment order thus can not be sustained and accordingly this application deserves to be allowed and the removal order dated 13/22.5.1988 and the order dated 10.3.1989 are quashed. The applicant will be deemed to be continued in service ^{and} entitled to all the benefits, However, the respondents are not precluded from going ahead ^{with} to the enquiry from the stage of giving enquiry officer's report to the applicant and giving him reasonable time to file objection against the same. In these circumstances, the application is allowed with the above terms. Parties to bear their own costs.


Member (A)

Bombay Bench

(n.u.)


Vice-Chairman

This order is set aside by S/c