

(2)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

O.A. NO: 239/89

199

ExAxxNQx

DATE OF DECISION 13.2.1992

M.H. Mahendra

Petitioner

Mr. M.A. Mahalle

Advocate for the Petitioners

Versus

Union of India & Ors.

Respondent

Mr. A.I. Bhatkar

Advocate for the Respondent(s)

CORAM:

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

The Hon'ble Mr. M.Y. Priolkar, M(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 ?

mbm\*

*u*  
( U.C. Srivastava )  
V/C

(8)

BEFORE THE CENTRAL ADMINISTRATION TRIBUNAL  
BOMBAY BENCH, BOMBAY

\* \* \* \* \*

Original Application No. 239/89

M.H. Mahendra

... Applicant

v/s

Union of India & Ors.

... Respondents

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

Appearances:

Mr. M.A.Mahalle, Advocate  
for the applicant and  
Mr. A.I.Bhatkar, for  
Mr. M.I.Sethna, Counsel  
for the respondents.

ORAL JUDGMENT:

Dated : 13.2.1992

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

The applicant, who at the relevant point of time was functioning as Senior Examiner of Trade Marks was placed under suspension 24.12.1986 and disciplinary proceedings were contemplated against him. He was served with a memorandum dated 8.1.1987 by the Respondent No.3 on behalf of the President enclosing therewith a charge-sheet under rule 14 of the C.C.S. (CCA) Rules, 1965 containing in all seven articles of charges against the applicant. This was done some two years after the date of alleged irregularities. The applicant sent the statement of defence in respect of the articles of charges framed against him. An Inquiry Officer was appointed and the enquiry proceeded. The applicant has pointed out that the enquiry has <sup>been</sup> sufficiently delayed. Even though he has submitted his defence statement but the defence statement was not taken into account and the Inquiry Officer submitted his report some ten months after concluding the proceedings to the disciplinary authority.

Although the enquiry proceeded against the charge-sheet in respect of the major charges, major penalty was given to the applicant and the enquiry was held accordingly. But the disciplinary authority ultimately awarded a minor penalty to the applicant of withholding one increment in the scale of Rs. 2200-75-2800-EB-100-4000 attached to the post of Senior Examiner of Trade Marks for a period of two years without cumulative effect. The applicant has challenged the said order by means of this application. The applicant has challenged the entire proceedings on a variety of grounds and ~~the~~ one of the ground of the challenge of the applicant is that the Inquiry Officer who submitted his report within ten months neither gave a copy of the report to him nor the disciplinary authority who ~~had~~ favoured with the report of the Inquiry Officer passed an order without giving an opportunity of hearing to the applicant against the Inquiry Officer's report who held the applicant to be guilty. On behalf of the applicant it was contended that this application deserves to be allowed only on one ground without entering into other questions viz. that the giving of the Inquiry Officer's report was a must and not giving it deprives an employee to make an effective representation against the Inquiry Officer's report and the quantum of punishment. The requirement of giving the Inquiry Officer's report to enable him to make an effective representation against the proceedings and the punishment is a requirement of principles of natural justice. In this connection reference has been made to the case of Union of India vs. Mohd. Ramzan ~~Khan~~, AIR 1991 SC 471. Whenever an inquiry is held and the Inquiry Officer proposes a punishment and the disciplinary authority punishes the employee the non-giving of the inquiry report vitiates the proceedings and the punishment order. The learned counsel

for the respondents contended that the Mohd. Ramzan Khan's case will not apply in this case. Although in this case the charge sheet was in respect of major penalty and the matter proceeded ~~xxx~~ against the applicant as if he was involved in a major penalty but later on only a minor penalty was given to the applicant which affected his future career not only the monetary benefits <sup>at</sup> but the future promotion chances and thus cutting/the root of his growing service career. When the applicant was served with a charge-sheet in respect of a major penalty and ultimately it was decided to hold minor penalty even then the applicant was to be given the copy of the Inquiry Officer's report. Unless a pre-decisional hearing is ~~not~~ given to the delinquent employee, while the disciplinary authority awarding the punishment may be in respect of major penalty or minor penalty, it will seriously ~~confuse~~ <sup>restrict</sup> his right and definitely offends the principles of natural justice. The pre-decisional hearing was a must as the person concerned should know as to what findings have been recorded against him and what prevails in the mind of the disciplinary authority in awarding him punishment. The case of Ramzan Khan will apply in this case also and accordingly this application deserves to be allowed on this ground and the punishment order dated 10.2.1989 is quashed. However, this will not preclude the disciplinary authority for giving the Inquiry Officer's report to the applicant giving him reasonable time to file objections against the same and going ahead with the disciplinary proceedings beyond that stage. No order as to costs.

  
( M.Y. Priolkar )  
Member(A)

  
( U.C. Srivastava )  
Vice-Chairman