

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

CAMP AT NAGPUR

O.A. NO: 452/89

199

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DATE OF DECISION 19.11.1991

Suhas Prahlad Gharpure

Petitioner

Mr. M. Sudame

Advocate for the Petitioners

Versus

Union of India & Ors.

Respondent

Ms. Indira Bodade

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.C.Srivastava)
V/C

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY
CAMP AT NAGPUR
* * * * *

Original Application No.452/89

Suhas Prahlad Gharpure,
R/o Plot No.30,
Radhakrishna Apartment,
Prashant Nagar, Ajni,
Nagpur 440 015.

... Applicant

V/s

1. Union of India, through
General Manager,
South-Eastern Railway,
Garden Reach, Calcutta 43.
2. Divisional Railway Manager,
South-Eastern Railway,
Nagpur.

... Respondents

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

Appearances:

Mr. M. Sudame, Advocate
for the applicant and
Ms. Indira Bodade, Counsel
for the respondents.

ORAL JUDGEMENT:

Dated : 19.11.1991

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

The applicant who was a Guard in South-Eastern Railway, Nagpur, while functioning as Guard in 1 NN Passenger train it appears a checking took place and the applicant was found under the influence of intoxicating drink or drugs. The applicant was taken to Nagpur where he was examined. He was suspended and thereafter the order of suspension was revoked and a charge-sheet was given to the applicant. The applicant submitted his reply to the charge-sheet. An Inquiry Officer was appointed and the Inquiry Officer after enquiry it appears reported in his favour but the disciplinary authority did not agree with the same. Here it will be relevant to point out that the Inquiry Officer or the disciplinary authority did not give a copy of the report of the

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Inquiry Officer to the applicant. The disciplinary authority without issuing any show cause notice to the applicant or without any recourse which is required under the relevant rules or which is also a requirement of principles of Natural justice passed the order dated 31.3.1986 removing the applicant from service. The applicant filed an appeal against the same. In appeal the penalty of removal was reduced to reduction in rank. The applicant filed a review application and the review application too was dismissed. On behalf of the applicant the learned counsel, apart from other pleas, stress was made on two pleas. The first plea was that when the disciplinary authority dis-agreed with the findings of the Inquiry Officer, of course, it was incumbent under the rule to give a show cause notice to the applicant and without taking his version no punishment could have been awarded. Another plea which has been taken is that of course it was incumbent on the disciplinary authority to give Inquiry Officer's report to the applicant. It is not necessary to enter into the second question as the rule has been followed in breach and the principles of natural justice has been violated in as much as that no opportunity was given to the applicant by the disciplinary authority regarding dis-agreement with the findings of the Inquiry Officer. In this connection reference has been made of the case of Narayan Misra vs. State of Orissa, 1969 SLR 657 and accordingly this application deserves to be allowed and the appellate order dated 13/21.11.1986 and revisional order dated 24.6.88 are quashed. However, ^{being} it is/made clear here that it will be open for the disciplinary authority to give an opportunity to the

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applicant and have his say on the Inquiry Officer's report and thereafter proceed with the enquiry in accordance with law. No order as to costs.



(M.Y. Priolkar)
Member (A)



(U.C. Srivastava)
Vice-Chairman

v/-