(7)

CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

[redacted] BOMBAY BENCH

O.A. No. 838/89 198
T.A. No.

DATE OF DECISION 10.10.1991

L.G.Dhanavade Petitioner

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

Versus

Union of India & Ors. Respondent

Mr. V.S.Masurkar Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. 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? 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 it needs to be circulated to other Benches of the Tribunal? N

MGIPRRND—12 CAT/86—3-12-86—15,000

(U.C.Srivastava)
V/C

(8)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY
* * * * *

Original Application No.838/89.

L.G.Dhanavade,
Maval Maratha Chawl,
Nehru Nagar, Kurla (E),
Bombay 400 028. ... Applicant

V/s

1. Union of India, through the
Secretary, Ministry of Defence,
South Block, DHQ Post Office,
New Delhi 110 011.

2. The Chief of Naval Staff,
Naval Head Quarter,
D.H.Q. PO, New Delhi 110 011.

3. The Flag Officer Commanding-in-Chief,
Western Naval Command,
Shahid Bhagatsingh Marg,
Bombay 400 001.

4. The Admiral Superintendent,
Naval Dockyard,
Bombay 400 023. ... Respondents

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

Appearances:

Mr. D.V.Gangal, Advocate,
for the applicant and
Mr. V.S.Masurkar, Advocate
for the respondents.

ORAL JUDGEMENT: Dated : 10.10.1991
(Per. U.C.Srivastava, Vice-Chairman)

The name of the applicant was sponsored by the Employment Exchange in response to the requisition by the Naval Dockyard, Bombay and after trade and medical test the applicant was initially appointed on casual basis and thereafter he was granted regular appointment. In the year 1985 a charge sheet was issued to him regarding securing the employment on the basis of fictitious certificate. A departmental enquiry took place and the Inquiry Officer submitted his report to

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the disciplinary authority and the disciplinary authority relying on the same passed order of removal. The applicant filed an appeal and thereafter a revision application and both were dismissed. Thereafter he has approached the Tribunal. The applicant has challenged the enquiry proceedings on a variety of grounds including on the ground that the Inquiry Officer's report was not given to him which would have given an opportunity to raise an effective representation against the enquiry proceedings and the punishment given to him, which plea was raised before the revisional authority. Even the applicant also challenged the socalled admission made by him. 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 principle of natural justice. Wherever an enquiry is held and the Inquiry Officer proposes a punishment and the disciplinary authority punishes the employee the nongiving of the enquiry report vitiates the proceedings and the punishment order as has been held by the Honourable Supreme Court in the case of Union of India vs. Mohd. Ramzan Khan, AIR 1991 SC 471. Even if a person admits the guilt which he challenges it is always open for him to challenge the so called admission on various grouhds including that it was under coersion or it was procured or it was under ignorance. In view of the fact that the applicant was not given reasonable opportunity to defend himself the principle of natural justice is violated the punishment order cannot be sustained. Accordingly this application is allowed and the removal order dated 23.5.1988 is quashed and the

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appellate order and revisional order are also quashed. However it is made clear that it will not preclude the disciplinary authority from going ahead with the disciplinary proceedings beyond the stage of giving the Inquiry Officer's report to the applicant giving him reasonable time to file objections against the same. There will be no order as to costs.

(M.Y. Priolkar)
Member(A)

(U.C. Srivastava)
Vice-Chairman

v/-