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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

Review Petition No.24/92  
in  
O.A.518/90

Momina Habiburehman Sayed,  
12/75, BDD Chawl, Worli,  
Bombay - 400 018.

.. Applicant

vs.

1. Regional Director,  
Regional Office,  
Maharashtra Employees State  
Insurance Corporation,  
ESIC Bhavan,  
Lower Parel,  
Bombay.

2. Director General,  
ESI Corporation,  
Kolta Road,  
New Delhi.

3. Union of India  
through  
Additional Secretary  
and Chairman of Standing  
Committee,  
ESI Corporation,  
Shram Shakti Bhavan,  
New Delhi.

.. Respondents

Coram: Hon'ble Shri Justice U.C.Srivastava,  
Vice-Chairman.

Hon'ble Shri M.Y.Priolkar, Member(A)

TRIBUNAL'S ORDER IN REVIEW PETITION: Date: 6-2-1992  
(Per U.C.Srivastava, Vice-Chairman)

The review petition is directed against our judgment and order dtd. 11-10-1991 allowing the application filed by the applicant on the ground that reasonable opportunity to defend her case was not given inasmuch as the Inquiry Officer's report was not given to her in order to enable her to make a representation against the same, and this violated principles of natural justice and in this connection we have placed reliance on the case of Union of India vs. Mohd.Ramzan Khan, AIR 1991 SC 471, .

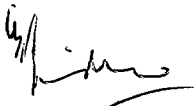
2. This review petition, which is filed by the original respondents, has been directed on the ground that in the said Ramzankhan's case the Supreme Court


itself has held that the said decision shall have only ~~xxxx~~ prospective application. The applicant to the review application themselves have added the word "shall be open to challenge solely on the ground of non supply of enquiry report before imposition of penalty." Although these words does not find a place in the judgment. Further it has been stated that the inquiry officer's report dtd. 17-5-88 was served on the original applicant on 5-8-1988 i.e. along with the penalty order itself and on the basis of the said order applicant filed an appeal to the appropriate appellate authority which considered the contention raised by her and rejected it.

3. In the Ramzankhan's case undoubtedly an observation has been made that it will have ~~prospect~~ prospective effect which means that the matters which are closed, shall not be opened on the basis of the said judgment. The Supreme Court nowhere said that the statutory provisions conferring a right on the party to approach the Tribunal will also be done away with and Tribunal's power to interfere in the penalty order will also stand abrogated although the parliament has not yet amended the law. The cases which were before the Tribunal will not stand abated on that question. If the Tribunal had power to interfere in the matter of penalty the Tribunal will continue to adjudicate the same and this powers had not been curtailed. Accordingly the plea which has been taken by the applicant for recalling the order is without any substance.

4. The other plea is also without any substance. In this connection it will be proper to refer to a decision of the Supreme Court in the case of Institute of Chartered Accountants v. L.K.Ratna 1986(4)(SCC) 537 wherein it was held that "before taking a decision on the question of guilt the delinquent was entitled to be afforded an opportunity of hearing irrespective of the fact that a hearing had already been given to him in a proceeding before disciplinary committee and that an appeal later against the ~~xxx~~ Council's decision before the High Court and the decision of the Council in the absence of such an opportunity of hearing is liable to be quashed."

5. As none of the grounds raised by the review applicant carry any grounds for recalling our judgment the review petition is dismissed.

  
(M.Y. PRIOLKAR)  
Member(A)

  
(U.C. SRIVASTAVA)  
Vice-Chairman

MD