

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

2

O.A. NO: 676/90

199

T.A. NO: ---

DATE OF DECISION 7-2-1992

Ganesh Jivaji Joshi

Petitioner

Mr.M.A.Mahalle

Advocate for the Petitioners

Versus

Union of India and others

Respondent

Mr.V.M.Bendre

Advocate for the Respondent(s)


CORAM:

The Hon'ble Mr. Justice 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 ?
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 ?

MD


(U.C.SRIVASTAVA)

mbm*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

(8)

O.A.676/90

Ganesh Jivaji Joshi,
2, Sumankunj, Maratha Colony,
Maratha Colony Road,
Dahisar(E),
Bombay - 400 068.

.. Applicant

vs.

1. Union of India
through
The Secretary,
Ministry of Finance,
Dept. of Revenue,
New Delhi.
2. Collector of Central Excise,
Bombay-II,
Piramal Chamber, Lalbaug,
Parel,
Bombay - 400 012.
3. Shri Surjit Singh,
the then Collector of
Central Excise,
Bombay
now Collector Central Excise &
Customs,
Chandigarh - 161 017.
4. Shri Guru Sharan Singh,
Assistant Collector of
Central Excise, now retired
44-A, Shere Punjab Co-op. Hsg.
Society, Mahakali Cave Road,
Andheri(East),
Bombay - 400 093.
5. Shri A.K.Pawar,
Assistant Collector of
Central Excise Division VIII,
Bombay II
6. Union Public Service Commission
through its Secretary,
New Delhi.

.. Respondents

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

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

Appearances:

1. Mr.M.A.Mahalle
Advocate for the
Applicant.
2. Mr.V.M.Bendre
Advocate for the
Respondents.

ORAL JUDGMENT:

Date:7-2-1992

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

The applicant was posted as Superintendent in Range III, Division IX, Collectorate Bombay II. On 8-10-1987 Respondent No.2 and 3 issued a proposal to hold enquiry under Rule 14 of CCS(CCA)Rules,1965 against the applicant. An Inquiry Officer and Presenting Officer was appointed. Inquiry Officer rejected various plea of the applicant and his request also turned down. The Disciplinary Authority on the basis that there was no such chargesheet and no opportunity was given to him closed his case without even giving an opportunity for statement of defence. The applicant offered himself for examination. However, he was not cross examined by the Presenting Officer. He was only examined by the Defence Assistant. It was subsequently the applicant also filed his defence pointing out the correct fact. The Disciplinary Authority passed an order remitting the enquiry to the Inquiry Officer for further enquiry in respect of two charges viz. Article 3 and 4. The Inquiry Officer after his enquiry, which has been challenged by the applicant on variety of grounds, submitted his report and on the basis of the report the Disciplinary Authority ordered that the pay of the applicant be reduced by two stages from Rs.2975/- to Rs.2825/-PM in the time scale of pay of Rs.2000-60-2300-EB-75-3200-100-3500 for a period of two years with effect from 1-9-1988. It was further directed that Shri G.J.Joshi will not be paid increments of pay during the period of reduction and on the expiry of this period the reduction will have the effect of postponing his future increments of pay. The Disciplinary Authority prior to passing

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the order on the basis of the report of the Inquiry Officer did not furnish the applicant report of the Inquiry Officer and the applicant was thus deprived of making a representation against the said report.

2. The applicant has challenged the enquiry proceedings on variety of grounds including holding of de-novo enquiry.

3. It is not necessary to enter into the various plea raised by the applicant as this application deserves to be allowed on the ground that Inquiry Officer's report was not given to the applicant even though Inquiry Officer recorded his findings and the Disciplinary Authority proposed punishment. Thus the applicant deprived of reasonable opportunity to defend himself which is violation of principles of natural justice as held by the Supreme Court in the case of Union of India v. Mohd. Ramzan Khan, AIR 1991 SC 471.

4. This application is accordingly deserves to be allowed and accordingly the order dtd. 31-8-1988 passed by the Disciplinary Authority and order dtd. 7-2-1990 passed by the Appellate Authority is quashed and set aside. However, this judgment will not preclude the Disciplinary Authority in going ahead with the enquiry after giving Inquiry Officer's report to the applicant and reasonable time to file objection against the same. There will be no order as to costs.


(M.Y. PRIFOLKAR)
Member (A)


(U.C. SRIVASTAVA)
Vice-Chairman