

(6)
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. NO: 518/90

~~199~~

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DATE OF DECISION 11-10-1991

MOMINA H. SAYED

Petitioner

MR. Y H MENON

Advocate for the Petitioners

Versus

UNION OF INDIA & OTHERS

Respondent

MR. M I SETHNA

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 ?


V.C.

mbm*

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, "GULESTAN" BUILDING NO.6
PRESCOT ROAD, BOMBAY 400001

DA No.518/90

MOMINA HABIBUREHMAN SAYED
12/75 BDD Chawl, Worli
Bombay 400018

.. Applicant

V/s.

1. Regional Director
Regional Office
Maharashtra Employees State
Insurance Corporation
ESIC Bhavan
Lower Parel, Bombay
2. Director General
ESI Corporation
Kolta Road Delhi
3. Union of India through
Additional Secretary and
Chairman of Standing Committee
ESI Corporation
Shram Shakti Bhavan, New Delhi

.. Respondents

CORAM: HON.SHRI JUSTICE U C SRIVASTAVA, V.C.
HON.Shri M Y PRIOLKAR, MEMBER(A)

APPEARANCE

MR. Y H MENON
ADVOCATE
FOR THE APPLICANT

MR. M I SETHNA
COUNSEL
FOR THE RESPONDENTS

ORAL JUDGMENT

(PER: U C SRIVASTAVA, VICE CHAIRMAN)

DATED: 11-10-1991

The applicant who was working as Upper Division Clerk in Posting Section, Colaba of ESIC was charge sheeted on the ground that she has submitted a medical bill for reimbursement which was tampered. The applicant submitted her reply and gave her explanation. The Inquiry Officer who conducted the inquiry found her guilty and submitted his report to the Disciplinary Authority. The Disciplinary Authority it appears has agreed with the findings of the Inquiry Officer and awarded the punishment of reduction in rank, i.e., to the post of Lower Division Clerk at the minimum of time scale. The applicant preferred an appeal against

the same. The Appellate Authority dismissed the same. Thereafter she filed a second appeal, and that too was dismissed. Thereafter she approached the Tribunal.

2. Although the applicant has challenged the inquiry proceedings and the punishment order on variety of grounds, the main question which has been canvassed is that the inquiry Officer's report was not given before awarding the punishment. There is no denial of the fact that the inquiry officer's report was not given to the applicant with the result the applicant was disabled from filing any representation against the conclusions arrived at by the inquiry officer and the punishment proposed to be inflicted.

3. The non-supply of inquiry report to the delinquent employee by the disciplinary authority before awarding punishment to give an opportunity for appeal is violative of principles of natural justice as has been held in the case of Union of India V. Md. Ramzan Khan, AIR 1991 SC 471. Whereever an inquiry has been held and the inquiry officer holds the employee guilty and submits his report to the disciplinary authority and disciplinary authority wants to punish the employee the delinquent employee should be given a copy of inquiry report for making necessary representation. Otherwise the same vitiates and the principles of natural justice of giving the employee reasonable opportunity of defence. In that case the punishment order was quashed.

4. Accordingly, in this case the punishment order dated 5.8.88 and the appellate orders are quashed. However, it has been made clear that it will not preclude

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the respondents to proceed with the inquiry from the stage of giving a copy of the inquiry report to the applicant and giving her reasonable time to ~~time~~ file a representation against the same. In the circumstances of the case, however, there would be no order as to costs.



(M Y PRIOLKAR)
MEMBER (A)



(U C SRIVASTAVA)
VICE CHAIRMAN