

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. NO: 333/90

199

T.A. NO: -----

DATE OF DECISION 12-2-1992

Pramodkumar Kulshreshta

Petitioner

Mr. Paul Sunderrajan

Advocate for the Petitioners

Versus

Union of India and 5 others.

Respondent

Mr. R. K. Shetty

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 ?


(U.C. SRIVASTAVA)

MD
mbm*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A.333/90

Pramodkumar Kulshreshtha,
Flat No.1, "Pravesh Hsg.
Scty.Ltd.",
Lingayat Colony,
Deolaligaon,
Nashi Road 422 101.

.. Applicant

vs.

1. Union of India
through
The Secretary,
Ministry of Defence,
New Delhi - 110 001.
2. The Engineer-in-Chief,
Army Head Quarters,
Kashmir House,
New Delhi - 110 001.
3. The Chief Engineer,
Southern Command,
Head Quarters Southern
Command,
Pune - 411 001.
4. The Chief Engineer,
Bombay Zone,
Assaye Building, Colaba,
Bombay - 400 005.
5. The Commander Works Engineer,
Onslow Road, Deolali Camp
Dist. Nashik 422 401
6. The Garrison Engineer(Central)
Deolali Camp 422 401
Dist. Nasik. .. Respondents

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

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

Appearances:

1. Mr.Paul Sunderrajan
Advocate for the
Applicant.
2. Mr.R.K.Shetty
Counsel for the
Respondents.

ORAL JUDGMENT: Date: 12-2-1992
(Per U.C.Srivastava, Vice-Chairman)

The applicant was appointed as Supdt.
Electrical/Mechanical Gde.II, M.E.S. on 23-11-64 and
has served at various stations. During the year 1984-88
while the applicant was serving under

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Respondent No.6 ^{he} was compulsorily retired from service on 26-10-1988 by way of punishment, in respect of certain misconduct. Preliminary enquiry commenced and an Inquiry Officer was appointed. The applicant disputed the charges. Inquiry Officer submitted his report. The matter came up before the Disciplinary Authority and the Disciplinary Authority disagreed with the Inquiry Officer and held that the applicant is guilty of charges and awarded the punishment of compulsory retirement. The applicant preferred an appeal against the same which was also dismissed. Thereafter the applicant approached this Tribunal.

2. On the basis of the pleadings raised by the applicant the application deserves to be allowed, on the ground that the disciplinary authority did not give him any notice before imposing the penalty.

3. Notwithstanding deletion of Article 311 of the Constitution of India the principles of natural justice even then will continue to apply even if there is no specific rule. Whenever disciplinary authority disagrees with the finding of the Inquiry Officer it is obligatory on the part of the disciplinary authority to give the delinquent employee an opportunity of hearing but in case that is not done the same violates principles of natural justice and deprive the delinquent employee from reasonable opportunities to defend himself. Virtually this has happened in this case, that the applicant was not apprised of the

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disagreement and the reasons for the same
why ~~the~~ and did not issue a show cause
notice to him and without hearing passed
an order to his behind.

4. This application as such
deserves to be allowed and the punishment
order passed by the Disciplinary Authority
dt. 10th October, 1988 is quashed and set aside.
However, it will be open for the Disciplinary
Authority to give reasons for the disagreement
and issue show cause notice to the applicant
and to go ahead with the inquiry after giving
reasonable time to the applicant to give reply
to the same. The application is disposed of
accordingly with no order as to costs.


(M.Y. PRIOLKAR)
Member(A)


(U.C. SRIVASTAVA)
Vice-Chairman

MD