

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 852/90

~~XXXXXXXX~~

198

DATE OF DECISION 13.3.1992

Madhukar Motilal

Petitioner

Shri M.W. Harsulkar

Advocate for the Petitioner(s)

Versus

D.R.M., C.Rly., Nagpur & Anr.

Respondent

Shri P.S. Lambat

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 ? *Y*
2. To be referred to the Reporter or not ? *Y*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *N*
4. Whether in needs to be circulated to other Benches of the Tribunal ? *N*

U.C. Srivastava
(U.C. SRIVASTAVA)
VICE CHAIRMAN.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, CAMP AT NAGPUR.

6

O.A.852/90.

Madhukar Motilal,
R/o. Sonegaon,
Post Sonegaon,
Tah. Multai, Dist. Betul.

.. Applicant.

Vs.

1. Divisional Railway Manager,
Central Railway,
NAGPUR.
2. General Manager,
Central Railway,
BOMBAY.

.. Respondents.

Coram : Hon'ble Mr. Justice U.C. Srivastava, Vice Chairman.
Hon'ble Mr. M.Y. Priolkar, Member (A).

Appearances:

Shri M.W. Harsulkar,
Advocate for the applicant.

Shri P.S. Lambat, Counsel
for the Respondents.

ORAL JUDGMENT :

Dated : 13.3.1992.

[Per : Hon'ble Shri U.C. Srivastava, Vice Chairman]

Misc. Petition No.186/92 for early hearing is allowed. The case No.O.A.852/90, is being heard and disposed of today.

The applicant was working as a Ladderman in Class IV establishment with the Central Railway. The Chargesheet was issued to the applicant for unauthorised absence for 4 days initially and further continued for a period of 3 months from 10.12.1984 to 13.3.1985. The charge of the first 4 days was that he remained absent without intimation and for the further period it is alleged that he placed himself under the sick list on 22.11.1984 at Assistant Divisional Medical Officers,



O.A.852/90.

Ballarshah vide medical certificate dtd. 22.11.1984. The applicant submitted the reply to chargesheet and denied the charges against him. An Inquiry Officer was appointed and Inquiry Officer conducted the Inquiry and held ~~that~~ the applicant guilty. Acting on the basis of the Inquiry Officer's report the Disciplinary Authority passed an order removing him from service. The applicant has filed a Mercy Application and has also filed an appeal against the same. The other persons also approached the departmental authority saying that he has been unnecessarily punished and he was really sick and was under the treatment of a private Doctor. The applicant's appeal was dismissed and thereafter the applicant approached this Tribunal. The Tribunal found that the Appellate Authority has passed a non-speaking order without giving personal hearing to the applicant and as such the appeal was allowed. The appellate Authority was directed to rehear the appeal after giving the personal hearing to the applicant. This time the Appellate Authority gave personal hearing to the applicant and by a short order maintained the removal order relying on some previous conduct of the applicant. There is no denial of the fact that no notice was given to the applicant regarding his past habit or that he has any opportunity to have the same corrected. In respect of this his plea ^{has to} ~~was~~ succeed. Apart from the period which was included in the chargesheet ^{and} it obviously states the mind of the Appellate Authority and that is why the Appellate Authority maintained the order. The order passed by the Appellate Authority in these circumstances cannot be allowed to stand.

O.A.852/90.

8

3. It is also clear that the Inquiry report was not given to the applicant and it was given to him only alongwith the punishment order. This disabled the applicant from filing a representation against the Inquiry Officer's report and the proceedings taken by him in violation of natural justice as has been held in the case of Union of India Vs. Mohd. Ramzan Khan & Others - A.I.R. 1991 S.C. 471.

4. Accordingly this application deserves to be allowed and both the appellate order and punishment orders are quashed. This order however does not preclude the Disciplinary Authority from going ahead with the Inquiry proceedings giving copy of the report to the applicant and giving him time to file objection against the same. The authority will obviously consider the case from the correct perspective.

5. There will be no order as to costs.


(M.Y. PRIOLKAR)
MEMBER (A).


(U.C. SRIVASTAVA)
VICE CHAIRMAN.

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