

(3)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH
CIRCUIT SITTING AT NAGPUR

O.A. NO: 515/91

199

T.A. NO: ----

DATE OF DECISION. 9-3-1992

Ramkrishna Bhagwandas Upadhyay Petitioner

Mr. J.L. Shoo Advocate for the Petitioners

Versus

The Director, Air Armament Inspection Wing, Respondent

D.T.D. & P(AIR), New Delhi and one another

Mr. Ramesh Darda 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
CAMP AT NAGPUR

O.A.515/91

Ramkrishna Bhagwandas Upadhyay,
R/o. Empress Hostel,
Room No.8, Ordnance Factory Chanda
Estate Area, Chandrapur. .. Applicant

vs.

1. The Director,
Air Armament Inspection Wing,
D.T.D & P(AIR),
H-Block, 18 Ministry of Defence,
New Delhi.
2. Group Captain,
Office Incharge
Office of the Air Armament
Inspection Wing,
Ordnance Factory premises Khamaria,
Jabalpur (M.P) .. Respondents

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

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

Appearances:

1. Mr.J.L.Bhoot
Advocate for the
applicant.
2. Mr.Ramesh Darda
Counsel for the
Respondents.

ORAL JUDGMENT: Date: 9-3-1992
{Per U.C.Srivastava, Vice-Chairman}

As a very short question is involved
and the pleadings are completed, after hearing
both the counsels the application is disposed of
at the admission stage itself. The application is
admitted.

2. The applicant was working as
Examiner in Air Armament Inspection Wing
(Ordnance Factory) Chandrapur. He was initially
appointed in 1962 as Armourer and was posted at
Khamaria, Jabalpur. On 6th November, 1986 a
memorandum under Rule 14 of CCS(CCA) Rules, 1965
was issued alleging that the applicant threatened
one Shri Inderpal S.S.O. II of Dct.AAIW Chanda

that the applicant ~~shall kidnap~~ will kidnap his sons while ~~going~~ on the way to school or coming back. It was further alleged that the above act exhibited lack of devotion to duty and conduct unbecoming of a Government servant thereby violating Rule 3 of CCS(Conduct)Rules, 1964.

3. The applicant ~~denied~~ the charges levelled against him . He was suspended on 14-8-1986. An Inquiry Officer as well as ~~an~~ Presenting Officer was appointed. In the meanwhile on 23-5-1987 the suspension order of the applicant was revoked.


4. The grievance of the applicant is that during the course of the enquiry the applicant was not allowed to cross examine the witnesses. He was also not supplied with relevant ~~the~~ copies of documents. As the applicant was not well versed with English language he requested the Inquiry Officer to issue him a Hindi version of the chargesheet. Despite his request the proceedings were conducted in English. Further, he was not given a copy of the Inquiry Officer's report before imposing the penalty by the Disciplinary authority in order to give ~~him~~ an effective representation against the same.

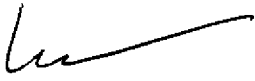
5. This application can be allowed only on one ground that non supply of Inquiry Officer's report to the delinquent employee before imposing the penalty ~~has~~ violated the principles of natural justice, as the delinquent employee could not make effective representation against the ~~xxxxx~~ proceedings or the punishment proposed. In this connection a reference be made to the decision of the Supreme Court in the case of Union of India v. Mohd. Ramzan Khan (AIR 1991 SC 471) wherein it has been held that

11/11/87 :-

wherever an Inquiry Officer has appointed and ~~the~~ submitted the report to the Disciplinary Authority holding the delinquent employee guilty of charges the Disciplinary Authority should give a copy of the Inquiry Officer's report to the delinquent in order to make effective representation and non supply of the same violates principles of natural justice. The same thing has happened in the instant case.

6. Accordingly the punishment order dtd. 7-9-1987 isquashed. However, this will not preclude the Disciplinary Authority going ahead with the inquiry proceedings after giving the applicant copy of the Inquiry Officer's report with reasonable time to make representation against the same. The application is disposed of on the above lines with no order as to costs.


(M.Y. PRIOLKAR)
Member(A)


(U.C. SRIVASTAVA)
Vice-Chairman

MD

THE CENTRAL ADMINISTRATIVE TRIBUNAL, BOMBAY BENCH

Review Petition No. 102/92

IN

O.A. No. 515/91

Ramkrishna Bhagandas Upadhyay Applicant

Versus

Union of India and others Respondents.

Hon'ble Mr. Justice U.C. Srivastava, V.C.

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

Dt. 23-7-92.

(By Hon'ble Mr. Justice U.C. Srivastava, V.C.)

The review application is directed against our judgment and ordered dated 9.3.92. The case was heard and disposed of after counsel for the both the parties. Scope of review application is limited. Review application can be entertained if there is any error apparent on the face of the record. In our opinion there is no error much less apparent error in our judgment. The impugned order was passed on 17.9.87 and Ramjan Khan case was decided in 1990. Much before decision in Ramzan Khan case the plea of violation of principles of natural justice in not giving report of enquiry officer had been taken in the case. Even prior to it a full Bench of the Central Administrative Tribunal in the P.L. Sharma case, (1988)⁶ A.T.C. Page 904) had already taken the same view. In this view the plea that retrospective effect to Ramzan Khan case which has neither amended the Administrative Tribunal's Act or curtailed the powers and jurisdiction of the Tribunal or stayed the pending cases in which such a plea has been taken, has been given is without substance. The review application is without any merit and is summarily rejected.

Member (A)

Vice-Chairman

Dated: 23rd July, 1992

(mdp)