

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
~~AMRITSAHAR Bench~~  
BOMBAY BENCH

O.A. No. 371 OF 1991.  
~~ExconNex~~

DATE OF DECISION 14.11.91

K.N. Prakasan, Petitioner

Mr. G.S. Walia, Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondents

Mr. A.I. Bhatkar for Sr. Advocate Advocate for the Respondent(s)  
Mr. M.I. Sethna.


CORAM :

The Hon'ble Mr. M.M. Singh, Administrative Member.

The Hon'ble Mr. T.C. Reddy, Judicial Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. Whether it needs to be circulated to other Benches of the Tribunal? No

MGIPRRND-12 CAT/86-3-12-86-15,000

  
(M.M. SINGH)  
Member(A)

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K.N. Prakasan, working as Junior Engineer (Civil) under the Department of Light Houses and Light Ships, Rajawadi, Ghatkopar (East), Bombay-71. (C/o. Shri G.S.Walia, Advocate High Court, Office No. 65, 1st Floor, Prabhat Centre, Near Fire Stn. New Konkan Bhavan, New Bombay,).

.... Applicant.

(Advocate: Mr. G.S.Walia)

Versus.

Union of India  
through

1. Ministry of Transport,  
Department of Surface  
Transport, Light Houses &  
Light Ships, Rajawadi,  
Ghatkopar (East),  
Bombay - 71.
2. Director, Light Houses &  
Light Ships, Ghatkopar (East)  
Bombay - 71.

..... Respondents.

(Advocate: Mr. A.I. Bhatkar for  
Sr. Advocate Mr. M.I. Sethna.)

J U D G M E N T

O.A.No. 371/1991

Date: 14/11/91

Per: Hon'ble Mr. M.M. Singh, Administrative Member.

The delinquent applicant Junior Engineer (Civil) under the department of Light Houses and Light Ships has been served with a charge sheet consisting of four articles by the second respondent, the Director of Light Houses and Lightships, Bombay, acting under the provisions of the Central Civil Services (Classification, Control and Appeal) Rules 1965 (hereafter the Rules). He has filed his application under section 19 of the Administrative Tribunals Act, 1985, seeking direction to quash and set aside

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the chargesheet.

2. We have heard Mr. G.S.Walia, learned counsel for the applicant and Mr. A.I. Bhatkar, learned counsel for Senior Counsel Mr.M.I. Sethna for the respondents. As the learned counsel submitted that they have made their final submissions, we perused the record for our judgment.

3. The applicant's contentions against the chargesheet served on him are that the charges do not disclose the exact nature of the allegation and in what connection and on what date the applicant committed the alleged delinquencies. The applicant nevertheless submitted his reply to the chargesheet pointing out the inadequacy of the chargesheet in this regard. The applicant's submission is that the same should have been taken into consideration by the respondents for quashing the chargesheet. However, instead, the respondents chose to appoint the inquiry officer to proceed with the charges.

4. We are of the view that the matter is amenable to being looked at differently from the ways <sup>in</sup> ~~above~~ expressed before us. Annexure-II of the charge sheet consists of Statement of imputation of misconduct or misbehaviour. This part is blank. To our question, Mr.A.I. Bhatkar, learned counsel for the respondents, confirmed that the statement of imputation is kept blank in the original chargesheet also. The list of documents relied upon in support of the articles of charges figure in Annexure-III. The same consist of copies of

12 letters the numbers and dates of each of which are mentioned. However, there is no mention of the substance of any of them. There is also no mention regarding which of them will support what article of charge.

5. Annexure-I containing the articles of charges, Annexure-II the Statement in support of the Articles of charges and Annexure-III list of documents and witnesses form part of a single document on the basis of which disciplinary proceedings take place under the relevant Rules. The delinquent officer figures out his <sup>5 line</sup> ~~time~~ of defence from the contents of these three Annexures taken together. When Annexure-II has been left blank, the delinquent applicant stands deprived of the information which should have figured in Annexure-II but does not. When such information has not been furnished to the delinquent applicant, an obvious consequence of such omission can be to handicap the applicant in his defence even at the stage of furnishing of his reply to the charge and later. The first question therefore is whether the second respondent enjoys discretion under the Rules to do so. The first para of memorandum dated 12.2.1991 under which the three Annexures were forwarded to the delinquent applicant reads as below:

"The undersigned propose to hold an enquiry against Shri K.N.Prakashan, Junior Engineer (Civil) under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. The substance of the imputation of misconduct or misbehaviour in respect of which the enquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure-I). A statement of the

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imputation of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure-II). A list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed (Annexure-III & IV)."

Annexure IV does not exist. Only Annexures I, II and III exist and with Annexure II kept blank though the para. above says otherwise the same also does not exist in substance. Rule 14(3) of the Rules under the provisions of which the charges have been framed reads as below:

"(3) Where it is proposed to hold an inquiry against a Government servant under this rule and Rule 15, the disciplinary authority shall draw up or cause to be drawn up -

- (i) the substance of the imputations of misconduct or misbehaviour into definite and distinct articles of charge ;
- (ii) a statement of the imputations of misconduct or misbehaviour in support of each article of charge, which shall contain -
  - (a) a statement of all relevant facts including any admission or confession made by the Government servant ;
  - (b) a list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained."

From a simple reading and literal meaning of the above becomes clear as to what (ii) shall "contain". In its dictionary meaning "contain" implies what should be in it or what it should have. This meaning negatives Annexure II being left blank which ~~will~~<sup>is</sup>, besides likely to become a handicap to the delinquent applicant in his defence as above stated, is also violative of the provisions of the statutory rules above which the second respondent has no option but to comply with. Noncompliance of the statutory Rules is violative of the provisions of Statutory Rules. An inevitable result of the same

is to the product of such violation invalid and illegal and therefore liable to be quashed and set aside.

6. In view of the above, the application has merits and has to be allowed. We hereby do so and hereby quash and set aside the charge sheet dated 12.2.91 framed against the applicant. We here clarify that the respondents shall be at liberty to issue a proper charge sheet in accordance with law and rules if so advised.

7. There are no orders as to costs.

T - Chandra Sekhara  
(T.C. Reddy)  
Member (J)

M. M. Singh  
(M.M. Singh)  
Member (A)  
14.6.91