

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 866/92

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P.A. Rex

198

DATE OF DECISION 19.1.93

Shri Jabbar Hussain

Petitioner

Shri M.M. Sudame

Advocate for the Petitioner(s)

Versus

General Manager, Ordnance  
Factory, Bhandara.

Respondent

Shri R.Darda,

Advocate for the Respondent(s)

CORAM

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

The Hon'ble Mr. V.D.Deshmukh, Member (J)

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 ?

  
 (M.Y.PRIOLKAR)  
 MEMBER(A)

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH  
CAMP AT NAGPUR

3

Original Application No. 866/92

Shri Jabbar Hussain.

... Applicant.

v/s.

General Manager  
Ordnance Factory  
Jawaharnagar, Bhandara.

.. Respondent.

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

Hon'ble Shri V.D. Deshmukh, Member (J)

Appearance

Shri M.M. Sudame, counsel  
for the applicant.

Shri R. Darda, counsel  
for the respondents.

ORAL JUDGEMENT

Dated: 19.1.93.

¶ Per Shri M.Y. Priolkar, Member (A)¶

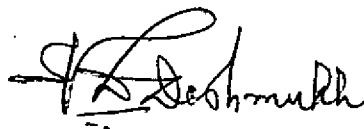
The applicant who is employed in Ordnance Factory, Bhandara was proceeded against departmentally and an enquiry was conducted. The Enquiry Officer in his report dated 27.11.89 found that none of the four articles of charge had been established. The disciplinary authority however differed with the Enquiry Officer and imposed on the applicant the penalty of reduction of pay to the minimum of the scale for a period of one year with effect from 29.6.91. His appeal against the penalty was rejected by the appellate authority on 3.1.92. The grievance of the applicant in this case is that no notice was given to the applicant by the Disciplinary Authority regarding his disagreement with the Enquiry officer and the penalty which has been imposed on the applicant is without any such notice.

The respondents have not disputed the fact that no show cause notice was given to the applicant before the penalty was imposed by the Disciplinary Authority after dis-agreeing with the finding of the Enquiry Officer. As held by the

Supreme Court in the case of Narayan Mishra Vs. State of Orissa decided on 25.3.1963(1969 SLR SC 657), it is against the principles of fair play and natural justice to take into account the charges of which an employee was acquitted without warning him that such charges will be used against him. In such case proper notice should be given to the employee concerned intimating to him that such charges would also be considered and affording him an opportunity of explaining them.

We have therefore to hold that imposing the penalty without giving any show cause notice after dis-agreeing with the findings of the Enquiry Officer is illegal being violative of principles of natural justice. Accordingly both the disciplinary authority's order dated 29.6.91 and the appellate authority's order dated 3.1.92 are quashed and set aside. The respondents shall however have the liberty to proceed further with the disciplinary proceedings, if they deem fit and necessary, in accordance with law, after giving the show cause notice to the applicant.

There shall be no order as to costs.

  
(V.D. DESHMUKH)  
MEMBER(J)

  
(M.Y. PRIOLKAR)  
MEMBER(A)

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