

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

**BOMBAY BENCH**

O.A. No. 398/92

198

~~XXXXXX~~

DATE OF DECISION 5.8.92

S K Dhapate Petitioner

Mr. D V Gangal Advocate for the Petitioner(s)

Versus

General Manager, Ord. Factory Respondent

Mr. R K Shetty Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. Justice S K Dhaon, Vice Chairman

The Hon'ble Mr. A 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?

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

*V.C.*

(4)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, "GULESTAN" BUILDING NO.6  
PRESCOT ROAD, BOMBAY-1

QA No.398/92

S.K. Dhapate  
Ex-Security/Durvan  
Ordnance Factory  
Bhusawal;  
Residing at Kanhayalal  
Plote; Vanjola Road  
Bhusawal

..Applicant

V/s.

The General Manager  
Ordnance Factory  
Bhusawal

..Respondent

Coram: Hon.Shri Justice S K Dhaon, V.C.  
Hon.Shri M Y Priolkar, Member(A)

APPEARANCE:

Mr. D V Gangal  
Advocate  
for the applicant

Mr. R K Shetty  
Counsel  
for the respondents

ORAL JUDGMENT:  
(PER: S K Dhaon, Vice Chairman)

DATED: 5-8-92

Disciplinary proceedings were initiated against the applicant. The Inquiry Officer was appointed. He inquired into the matter and exonerated the applicant from the charges leveled against him. The Disciplinary Authority on 19-12-1991 passed an order of punishment removing the applicant from service. This order is being impugned in the present application.

2. On 27.4.1992 Shri R K Shetty, who appeared on behalf of the respondents, prayed for and was granted four weeks time. Again, on 19.6.92, the proxy oc Shri Shetty prayed for and was granted 3 weeks time for filing reply. No reply has been filed. We are not inclined to accede to the request of Shri Shetty to grant further

time.

2. It is categorically averred in paragraph 1 of the application that no opportunity whatsoever was was given by the disciplinary authority to the applicant before disagreeing with the recommendations of the Inquiry Officer. Apart from the fact that these statements stand uncontroverted, the averment also finds corroboration from <sup>a</sup>the reading of the impugned order. In it, we do not find even a whisper to indicate that before passing the same, the punishing authority gave any opportunity to the applicant.

3. We are, therefore, satisfied that the impugned order passed was passed in violation of principles of natural justice. This defect is fatal. Therefore, the order cannot be sustained.

4. The application succeeds and is allowed. The impugned order is quashed. However, we make it clear that it would be open to the disciplinary authority to pass a fresh order in accordance with law after giving an opportunity to the applicant to show cause as to why the recommendation of the Inquiry Officer should not be accepted.

( M Y Priolkar )  
Member (A)

( S K Dhaon )  
Vice Chairman