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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. 1884/2002

New Delhi this the 27th day of June, 2003

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J).
Hon'ble Shri R.K. Upadhyaya, Member (A).

Shri K.K. Bhatia,
S/o late Shri M.C. Bhatia,
R/o E-45, Nehru Ground,
Faridabad. ... Applicant.

(By Advocate Shri George Paracken)

Versus

1. Chairman,
Central Electricity Authority,
Government of India,
Ministry of Power,
Sewa Bhawan, R.K. Puram,
New Delhi-110066.
2. Member (Grid and Operation),
Central Electricity Authority,
Government of India, Ministry
of Power, Sewa Bhawan,
R.K. Puram,
New Delhi-110066.
3. Director,
Hot Line Training Centre,
Central Electricity Authority,
6/7, Crescent Road,
Asha Nagar High Ground,
Bangalore-560001.
4. The Under Secretary,
Central Electricity Authority,
Government of India, Ministry of Power,
Sewa Bhawan, R.K. Puram,
New Delhi-110066. ... Respondents.

(By Advocate Shri Bhaskar Bhardwaj)

O R D E R (ORAL)

Hon'ble Mrs. Lakshmi Swaminathan, Vice Chairman (J).

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The applicant is aggrieved by the action taken by the respondents in initiating disciplinary proceedings against him and thereafter passing the penalty order by the disciplinary authority dated 8.9.1999 against which

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his appeal has been dismissed by order dated 2.5.2000 by the appellate authority.

2. The brief relevant facts of the case are that by Memorandum dated 5.3.1997, the applicant had been charged with four articles of charges, namely, that (i) while working as Assistant Storekeeper, he remained unauthorisedly absent from 8.9.1991 to 11.2.1997 without any valid reason or prior permission from his controlling officer; (ii) he has disobeyed the repeated instructions requiring him to report for duty at HLTC, Bangalore; (iii) he has disobeyed the repeated instructions to undergo medical examination at the Government Hospital, Faridabad; and (iv) he has failed to show devotion to duty and has set a bad example to his colleagues. As the applicant had denied these charges, an inquiry has been held in terms of Rule 14 of the CCS (CCA) Rules, 1965 (hereinafter referred to as 'the 1965 Rules'). An Inquiry Officer had been appointed on 19.6.1997 to inquire into the charges who according to the respondents, had completed the inquiry and submitted his report on 14.7.1998. This fact has been mentioned repeatedly in the various orders issued by the respondents. However, a copy of this report admittedly had not been given to the applicant at any stage for which he had made representation, for example, on 24.8.1998 to the disciplinary authority, which admittedly was not replied to by the respondents.

3. The disciplinary authority in his order dated 6.8.1998 had clearly stated that the Inquiry Officer had completed the inquiry and submitted his report on 14.7.1998. On the other hand, it is noted in the Inquiry

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Officer's report dated 22.12.1998 on the subject of Report of Departmental inquiry into the charges framed against him, that he had submitted a report on 17.6.1998. Thereafter, the disciplinary authority vide his letter dated 6.8.1998 directed the Inquiry Officer to further contemplate, reflect and evaluate the evidence which he had done and submitted in his letter dated 22.12.1998.

4. One of the grounds taken by Shri George Paracken, learned counsel is that neither the report of the Inquiry Officer stated to have been given on 17.6.1998 nor the report submitted on 14.7.1998, has been given to the applicant which is required under the provisions of Rule 15 of the 1965 Rules. In this regard, Shri Bhaskar Bhardwaj, learned counsel has submitted that inadvertently the respondents have made a mistake insofar as the Inquiry Officer has in his letter dated 22.12.1998 referred to his report as 17.6.1998 and the same should read as 14.7.1998. He has also clarified that there is, in fact, only one report of the Inquiry Officer, namely, that of 14.7.1998.

5. The above facts show that the respondents have not displayed that care which is expected of them while dealing with disciplinary proceedings against an employee particularly where the proceedings are initiated under the provisions of Rule 14 of the 1965 Rules which entail major penalties. It is also evident that the Inquiry Officer himself is stated to have made a mistake in his report which, according to the respondent's reply is only the report of 14.7.1998. The applicant had made a representation soon thereafter to the disciplinary

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authority to supply him a copy of this report which has not been done. He has stated the same points in his appeal to the appellate authority dated 20.10.1999 that under the provisions of the 1965 Rules he ought to have been given a copy of the Inquiry Officer's report. No proof has been forthcoming from the respondents that a copy of the Inquiry Officer's report was ever supplied to the applicant at any stage which, therefore, is contrary to the provisions of the 1965 Rules. In this connection, we also find merit in the submissions made by Shri George Paracken, learned counsel that without supplying a copy of the Inquiry Officer's report dated 14.7.1998 to the applicant, the Inquiry Officer seems to have sent him only a copy of the letter dated 22.12.1998 with reference to the disciplinary authority's letter dated 6.8.1998 clarifying three points and giving his conclusions. Without a copy of the Inquiry Officer's report, we agree with his submission that this letter would not be of much use to the applicant. In the facts of the case, we find that non-supply of the Inquiry Officer's report to the applicant in the present case will amount to prejudice. It is also relevant to note that in spite of this ground being taken by the applicant in his appeal to the appellate authority, that authority has not dealt with the point but has merely stated in his order dated 2.5.2000 that he has carefully considered the Inquiry Officer's report and taken into account all the relevant aspects of the case, including the representation of the applicant. In the facts of the case, we see no reason why after having held an inquiry against the applicant under the provisions of the 1965 Rules, the respondents themselves chose not to follow the terms and conditions of those rules in both letter and spirit. In this view of the

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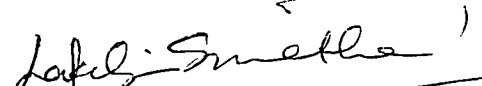
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matter, we are unable to agree with the conclusions of the appellate authority in his order that the inquiry proceedings have been held fairly and impartially. The same are not only de hors the Rules but against the principles of natural justice. Shri George Paracken, learned counsel had also taken a number of other issues. However, we are not expressing any views on the other issues in view of our order below.

6. In view of what has been stated above, the O.A. partly succeeds and is allowed. The disciplinary authority's order dated 8.9.1999 and the appellate authority's order dated 2.5.2000 are quashed and set aside. Accordingly, the office order dated 1.3.2002 is also quashed and set aside. However, in the facts and circumstances of the case, the matter is remitted to the disciplinary authority from the stage of receipt of the Inquiry Officer's report dated 14.7.1998 to proceed in the disciplinary proceedings in accordance with law, rules and instructions. The disciplinary authority shall pass a final order in the matter in accordance with law within four months from the date of receipt of this order. Needless to say, the applicant shall fully cooperate with the authorities in the proceedings. No order as to costs.



(R.K. Upadhyaya)
Member (A)



(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

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