

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
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O.A. NO.1511/1989
MP NO. 675/91

DATE OF DECISION 13.11.91

SHRI M.K. GHOSH

...APPLICANT

VS.

UNION OF INDIA & ANR.

...RESPONDENTS

CONSTITUTION

SHRI D.K. CHAKRAVORTY, HON'BLE MEMBER (A)

SHRI J.P. SHARMA, HON'BLE MEMBER (J)

FOR THE APPLICANT

...SH. UMESH MISHRA

FOR THE RESPONDENTS

...SH. N.S. MEHTA

1. Whether Reporters of local papers may be allowed to see the Judgement? *y*
2. To be referred to the Reporter or not? *ye*

J U D G E M E N T

(DELIVERED BY SHRI J.P. SHARMA, HON'BLE MEMBER (J))

In 1970, the applicant was appointed as Assistant Divisional Engineer Probation at Jabalpur and after completing the said period of probation in February, 1972, the applicant was posted as Assistant Divisional Engineer, Delhi Telephones, New Delhi. In December, 1973, the applicant was posted as Divisional Engineer and at

the relevant time, he was looking after installation work under Tele Communications Equipment, Delhi Telephones. In August, 1974, the applicant was involved in a criminal case under Section 120 B IPC, 420 IPC and Section 5(2)/5(1)(d) of Prevention of Corruption Act and this case is still pending in the Court of the Special Judge, New Delhi when the application was filed. Alongwith the criminal case, the department also started an enquiry through Central Vigilance Commission and the applicant alongwith others was found guilty regarding charge of lack of integrity and on the basis of the report of the Inquiry Officer, the disciplinary authority-Asstt.D.G., Vigilance (A) imposed the penalty of reduction of pay by three stages in the time scale of pay for a period of 1 year and during this period of reduction, the applicant will not earn any increments of pay and that on the expiry of this period, the reduction will have the effect of postponing the ^{future} increments. This punishment order is dated 17.4.1989 which was imposed after consultation with U.P.S.C. in the name of President of India. On the same day, the suspension order of the applicant was revoked and the suspension period was left to be decided after the conclusion of the criminal proceedings.

2. In this application under Section 19 of the Administrative Tribunals Act, the applicant has claimed for quashing the impugned order of punishment dt. 17.4.1989.

3. The case of the applicant is that the enquiry report dt. 31.1.1985 is not based on evidence, but it is based on presumption and surmises. It is further stated that the advice given by the U.P.S.C. is also arbitrary and also ignored the facts and circumstances of the case. Further it is said that the principle of natural justice has been violated as the documents referred to by the Inquiry Officer have not been supplied. The applicant was not furnished with the ^{Enquiry Officers'} report before awarding the punishment and as such there is ^{overt} violation of principle of natural justice.

4. The respondents contested the application and stated that the inquiry has been conducted according to rules. The applicant has been given fullest opportunity to defend himself. There is no violation of principle of natural justice. However, in para 5 (d), the respondents have admitted as per procedure in vogue at the time of issue of punishment order, copy of inquiry report was not required to be furnished to the charged officer. Further it is also stated in para 4 (vii) that the copy of the inquiry report was not required to be furnished to the charged officer before the disciplinary authority has passed an order.

5. We have heard the learned counsel of the parties at length. Now it is a settled law that the principle

of natural justice is to be applied even at the stage after the Inquiry Officer has submitted his report to the disciplinary authority. In this case, the inquiry proceeded under Rule 14 of CCS (CCA) Rules, 1965. In the case of Union of India Vs. Ramjan Khan, reported in 1991 SLJ 196 which upheld the judgement of the Prammath K.Sharma Vs. UOI passed by New Bombay Bench reported in 1988(3) SLJ 449 CAT, it has been held specifically that whenever an enquiry has been conducted by an Inquiry Officer who has submitted the report to the disciplinary authority holding the delinquent guilty of the charges, the delinquent is entitled to a copy of such a report and to make a representation against it even after the amendment of Article 311(2) of the Constitution of India. It has been held by the Lordships that non furnishing of the copy is in violation of rules of natural justice. The same view has been held by Delhi High Court in II 1991 CSJ High Court, Delhi 6-312-Ex-Constable Randhir Singh, CRPF Vs. UOI. The Hon'ble Supreme Court also considered the matter earlier in the case of K.V. Dixit Vs. UOI reported in 1986 SC 6-2118 where it was held that non furnishing the preliminary report vitiated the whole of the inquiry proceedings against the delinquent official.

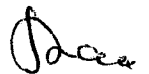
6. The learned counsel for the respondents could not show as to why the above ratio of the cases decided by


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Hon'ble Supreme Court and various other courts be not applied to the present case.

7. In fact the only argument addressed ^{by the learned counsel for applicant} before us was that non supply of the Inquiry Officer's report has prejudiced the case of the applicant who could not make effective representation against the same which led to the miscarriage of justice. In view of the above facts, the impugned order of punishment dt. 7.4.1989 is to be set aside on technical grounds only leaving the question of merits open.

8. The application is, therefore, allowed in part and the impugned order dt. 7.4.1989 is quashed and set aside with the direction to the respondents that they can proceed with the aforesaid inquiry afresh keeping in view the principles enunciated in the case of Ramjan Khan (supra) after supplying the copy of the Inquiry Officer's report to the applicant and giving him an opportunity to make a representation against the same. Then the disciplinary authority may pass ^{appropriate} order after due consultation with J. & S.C. etc. as envisaged under the CCS (CCA) Rules, 1965. In the above circumstances, the parties to bear their own costs. The above directions be carried out within three months from the date of the receipt of this order. MP 675/91 for staying the operation of the impugned order has become infructuous and is disposed of accordingly.


(J.P. SHARMA)
MEMBER (J)


(D.K. CHAKRAVORTY)
MEMBER (A) 13/11/1991