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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

Regn. No. O.A. 1727/1989. DATE OF DECISION: 2-8-1991.

Shri G.D. Chaturvedi APPLICANT.

V/s.

Union of India & Others RESPONDENTS.

CORAM: Hon'ble Mr. Justice U.C. Srivastava, Vice Chairman (J)
Hon'ble Mr. I.P. Gupta, Member (A).

Shri Jog Singh, counsel for the applicant.
Shri S.N. Sikka, counsel for the respondents.

(Judgment of the Bench delivered by Hon'ble
Mr. Justice U.C. Srivastava, Vice Chairman)

JUDGMENT

The applicant was initially appointed as Assistant Welfare Inspector in the Northern Railway on 13.3.1953. He earned a number of promotions during his service career and became Member Secretary in the Railway Service Commission, Allahabad in November, 1981 and continued to hold that post upto January, 1984. From June, 1982 to November, 1982, he acted as Chairman of the Selection Board at Allahabad for interviewing and selecting about 1400 candidates for Class III posts to be absorbed in various offices of the Northern Railway. Apart from the applicant, there were 3 other Members on the Interview Board. As the rules provided, the Chairman of the Selection Board had the last say in the matter. In accordance with the orders of the Railway Board dated 24.11.1981, the Chairman of the Selection Board was to be the final authority towards marks in respect of recruitment to both technical and non-technical categories of staff; the role of the other Members was advisory. The result-sheets were, apart from the Chairman of the Selection Board, signed by the other Members also.

2. The applicant has filed this application for quashing the order dated 8.8.1989 passed by the President of India as also the report of the Inquiry Officer dated 25.5.1989 along with the charge-sheet dated 3.4.1987. The impugned order by which the penalty of removal from service was imposed upon the applicant was passed when he had only

three months to retire from service. The charge-sheet dated 3.4.1987 was issued to him after a period of more than five years from the period to which the charges related and the enquiry was conducted in May, 1988. It is stated that the findings of the Inquiry Officer were submitted on 25.5.1988 and the order of removal from service based on the report of the Inquiry Officer was passed on 8.8.1989 i.e., sometime more than a year thereafter.

3. The charges against the applicant were that while working as Member Secretary / RSC / AID, during the period 1981 to 1983, he failed to maintain absolute integrity and devotion to duty and acted in a manner unbecoming of a Railway Servant in that he:

- i) inflated marks of a number of candidates who appeared at the Mass category written examination held by the RSC/AID on 28.2.1981 and thereby helped them to come in the Merit List;
- ii) rejected the candidature^{are} of a number of candidates for the aforesaid examination on the ground that their answer sheets had got too many erasings / cuttings whereas a large number of answer sheets of other candidates which also had many erasings/cuttings were not rejected;
- iii) disqualified some candidates for the above said examination on the ground that the particulars given in their application forms were typed and had not been filed in their handwritings but allowed a number of candidates whose applications were not traceable to submit fresh application forms and thereby contravened the provisions of Rule 3(1)(i)(ii) and (iii) of the Railway Services (Conduct) Rules, 1966.

4. The applicant made a representation against the same. The case of the applicant is that because of the non-supply of copies of the relied upon documents, he could not file a detailed reply to the charge-sheet dated 3.4.1987. An Inquiry Officer was appointed on 8.10.1987, who supplied to him some documents but one crucial document relating to the applicant's Note dated 1.6.1983 is said to have been supplied to him after the conclusion of the inquiry and, as such, he was deprived of that crucial document so long as the inquiry

continued. The findings of the Inquiry Officer show that charge No.1 was proved, while charges No.2 and 3 were not proved. The applicant in defence pointed out that the cuttings alterations were effected in the presence of co-members and the co-members had put up their signatures on the bottom of each page of the Summary Sheets and specially the grand total of marks were filled up in the presence of the co-members. The Inquiry Officer, after conclusion of the inquiry, did not give a copy of the inquiry report to the applicant. Copy of the inquiry report was given to the applicant only along with the punishment order. The applicant, apart from challenging the findings of the Inquiry Officer, has challenged the entire proceedings including the charge-sheet. The applicant has stated that two of the co-members had categorically admitted in the cross-examination before the Enquiry Officer that the grand total was done in their presence and that they had invariably signed every page of the Interview Summary Sheet after filling up the marks in the column of the grand total in the Summary Sheets by the applicant. According to him, if any co-member had not signed any page or had failed to countersign at points where cuttings alterations had been made during the course of the interview, he could not be held responsible for the same.

5. In the written statement, it is stated that there has been no delay in the processing of the case and the time taken for investigation was not much having regard to the quantum of work involved which included scrutiny of a very large number of records and interrogation of persons. A lot of time was spent in examination of the investigation report and framing definite charges, and that there was no malafide in the initiation of the disciplinary proceedings against the applicant. It has further been stated that so far as the documents are concerned, inspection of related relied upon documents was allowed to the applicant and the relied upon documents being bulky, it was not feasible to enclose copies of all such documents with the charge sheet.

It is further stated that the averments made in the application are highly distorted and vague and detailed reasons for holding charge No.1 as proved are given in the Inquiry Report, which was accepted by the Disciplinary Authority.

6. Under Rule 9 of the Railway Servants (Discipline & Appeal) Rules, 1968, it is obligatory on the part of the disciplinary authority to deliver or cause to be delivered to the Railway servant a copy of the articles of charge, the statement of the imputations of misconduct or misbehaviour and a list of documents and witnesses by which each article of charge is proposed to be sustained. If copies of documents have not been delivered to the Railway servant along with the article of charge and if he desires to inspect the same for the preparation of his defence, he may do so, within ten days from the date of receipt of the articles of charge to him and complete inspection within ten days thereafter and shall state whether he desires to be heard in person. In this case, copies of the statements were not given to him and some of the documents were not given to him for inspection. Even otherwise, we have noticed in this case that the report of the Inquiry Officer was not given to the applicant as is enshrined in the rules and the same violates the principles of natural justice. In the case of UNION OF INDIA & OTHERS Vs. MOHD. RAMZAN KHAN (Judgements Today 1990 (4) S.C. 456), an observation has been made that wherever there has been an Inquiry Officer and he has furnished a report to the disciplinary authority at the conclusion of the inquiry holding the delinquent guilty of all or any of the charges with proposal for any particular punishment or not, the delinquent is entitled to a copy of such report and will also be entitled to make a representation against it, if he so desires and non-furnishing of the report would amount to violation of rules of natural justice and make the final order liable to challenge. This observation is to apply prospectively. In the instant case, the matter has not become a closed chapter which is to be reopened. In

view of the observation of the Hon'ble Supreme Court, we feel that this is a case in which the entire disciplinary proceedings, including the charge-sheet deserve to be quashed. For an act done in the year 1982, the charge-sheet was issued in 1987 i.e., almost five years thereafter. The delay for the same has not been explained. There was a further delay of one year in conducting the inquiry and that delay is also not explainable. The legal position is very clear in this case. The applicant was to superannuate only after three months when the penalty of removal from service was imposed upon him. In view of the foregoing discussion, the inquiry proceedings and the punishment order dated 8.8.1989 are hereby quashed. The applicant shall be entitled to all consequential benefits. There shall be no order as to costs.

I. P. Gupta
(I.P. GUPTA)
Member(A)

U.C. Srivastava
(U.C. SRIVASTAVA)
Vice Chairman(J)

2-8-1991.