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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

D.A. No.133/88.

Date of decision: 25.8.1993.

C.M. Khosla

...

Applicant.

Vs.

Union of India & Another ...

Respondents.

CORAM:

HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.

HON'BLE MR. S.R. ADIGE, MEMBER (A).

For the applicant

...

Applicant in person.

For the respondents

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Shri N.S. Mehta, Sr.
standing counsel.

JUDGMENT (ORAL)

(By: Justice V.S. Malimath, Chairman)

The petitioner was proceeded against in a disciplinary enquiry in which two charges were framed against him. A minor penalty came to be imposed by order dated 28.1.1987 withholding the increment for a period of two years without cumulative effect. On his appeal dated 9.3.1987, the said order was confirmed. It is the said order that is challenged in this case.

2. The petitioner argued his case fairly and ably. His main contention is that he has been denied the opportunity of defending himself, in that copies of the documents inspection of which he has sought and copies thereof he has prayed for were not given to him. The list of the documents which he sought are contained in his application dated 11.10.1984. It consists of five documents. That the copies of the same were not furnished to the petitioner.

stands admitted by the respondents in the reply filed by them. The respondents say that he did not press his application for inspection and supply of copies. It is on that ground that the denial is sought to be supported. It is difficult to accede to the stand taken by the respondents that the petitioner who was contesting his application right from the beginning would have easily given up his request for inspection and copies of five sets of documents. We must, therefore, hold that the request for the inspection of the documents and supply of copies was wrongly declined. That being the position, it is reasonable to draw the inference that the petitioner has been denied the reasonable opportunity to defend himself. This is sufficient ground to interfere with the order of the disciplinary authority and that of the appellate authority. Having regard to the circumstances, we consider that we must accede to the request of Shri Mehta, learned counsel for the respondents that the enquiry should be permitted to be continued from the stage at which the infirmity accrued from the stage when the petitioner was denied inspection of documents and supply of copies of the documents.

3. For the reasons stated above, this application is allowed and the impugned orders of the disciplinary authority (Annexure A-XXV) dated 28.1.1987 and the appellate authority (Annexure XXVI) dated 9.4.1987 are hereby quashed. The respondents are permitted to continue the enquiry and complete the same as expeditiously as possible. They shall permit, before further proceeding with the enquiry, inspection of the

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documents specified in the petitioner's application dated 11.10.1984 and also supply copies of the same to him. It is only after this is done that the enquiry shall be further proceeded with. The evidence already recorded shall continue to be the evidence for the enquiry. If the petitioner seeks any further opportunity to place any further evidence, such opportunity should be given to him. If the department seeks to produce further evidence, the same should be permitted. The enquiry should be completed as expeditiously as possible. No costs.

Arulogji
(S.R. ADAGE)
MEMBER(A)

Malimath
(V.S.MALIMATH)
CHAIRMAN

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