

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

Regn. No. O.A. 617/1988. DATE OF DECISION: 2-8-1991.

Shri Anand Pal Applicant.

V/s.

Union of India & Anr. ... Respondents.

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

Shri K.L. Bhatia, counsel for the Applicant.
Shri P.P. Khurana, counsel for the Respondents.

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

JUDGMENT

The applicant was a Mate in Delhi Milk Scheme under the Government of India and was assigned the duties of loading and unloading the milk bottles etc. in the vehicle. On 5th December, 1985, it appears that it was found that 35 filled milk bottles were unauthorisedly sold to a lady and the matter was detected soon thereafter. The applicant and three other persons were charge-sheeted and departmental proceedings were started against them. The Inquiry Officer found them guilty. The applicant was removed from service by the order dated 27.5.1987 on the basis of the report of the Enquiry Officer. So far as the other three persons are concerned, they were compulsorily retired from service. The applicant has challenged the impugned order on the ground that the charge against him was based upon a fabricated story, besides there being violation of Articles 14 and 16 of the Constitution of India inasmuch as the other three persons have been given a lesser penalty of Compulsory Retirement from Service, while the applicant has been removed from service. He has also stated that there has been denial of full opportunity to defend himself and this was violation of the principles of natural justice. It has been stated as one of the grounds that after the case for the Disciplinary Authority was closed, he was not given any opportunity for his defence. From the order passed

by the Disciplinary Authority also, it is clear that the report of the Inquiry Officer was not delivered to the applicant as it was furnished to the disciplinary authority.

2. In UNION OF INDIA & OTHERS v. MOHD. RAMZAN KHAN (Judgements Today 1990 (4) SC 456), the Hon'ble Supreme Court has observed 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. Although this observation is to apply prospectively, it would not stand in the way of the instant case as the proceedings here have continued and it is not a closed chapter which has been opened. The legal position is thus very clear.

3. In view of the foregoing discussion, the application deserves to be allowed. The order of removal from service dated 27.5.1987 is hereby quashed with the observation that the inquiry shall start from the stage of supply of the inquiry report to the applicant and the inquiry shall be completed within a period of three months and the applicant shall fully cooperate with the inquiry proceedings. 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.