

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

(15)

O.A.814/86

Date of decision: 9.2.93.

R.R.Prashad

.. Applicant.

versus

Union of India &

Another .. Respondents.

Sh.Rattan Paul .. Counsel for the applicant.

None for the respondents.

CORAM:

The Hon'ble Sh.Justice Ram Pal Singh, Vice Chairman(J).

The Hon'ble Sh.I.K.Rasgotra, Member(A).

J U D G E M E N T

(Delivered by Hon'ble Sh.I.K.Rasgotra, Member(A)).

The case of the petitioner is that he travelled on an inaugral flight on Japan Airlines from Tokyo to Chicago on economy class ticket via Delhi Tokyo-Chicago-Tokyo-Delhi. The schedule of the flight was changed on the return trip providing a halt in London. He stayed with a friend in London who made a gift to him and his wife of a colour T.V. set and a revolver (.32 Smith & Wessel) both costing about 700 pound Inspite his friend's intention to gift these items, he

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insisted on treating the ² cost thereof as loan to be repaid after his return to India. The petitioner, on return, declared both the items to the Customs and paid the customs duty amounting to a little over Rs.16,000/-. He also advised his department about the colour T.V. and the revolver which he had brought with him. After good deal of correspondence between the petitioner and the department he was finally chargesheeted on 1st October, 1985 for a minor penalty under Rule 10 of the All India Services (Discipline and Appeal) Rules, 1969 which contained the following charges:

Article 1):

That the said R.R.Prashad, while functioning as F.R.R.O., Intelligence Bureau, New Delhi during the period from 25.4.78 to 31.1.1985, granted permission to visit Japan, U.S.A., Hongkong, Bangkok, to attend the inaugral function of Japan Airlines to Los Angeles. However, Sh.R.R.Prashad also visited London without permission of the Government of India.

Article 2)

That the said R.R.Prashad brought with him one colour T.V. set and a revolver and he could not explain the

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source of purchase of these items and
gave different version in this
regard.

2. After his representation was considered, the penalty of censure was imposed on him by the President. Aggrieved by the above the petitioner filed this O.A. under Section 19 of the Administrative Tribunals Act 1985.

3. Sh.Rattanpaul, learned counsel for the applicant submitted that the penalty was imposed on the petitioner in violation of the principles of natural justice. The petitioner was not given any opportunity to defend himself before the imposition of the penalty. Particularly when the penalty had been imposed on the advice of the Union Public Commission.

4. None appeared for the respondents even though we waited for almost 45 minutes. We also sent for Sh.N.S.Mehta, learned Senior Standing Counsel but he was not available. Keeping in view that it is an old matter, we consider it proper to proceed to decide the case on merits.

5. The procedure for imposing minor penalties as given in Rule 10(2) of the All India Services (Discipline & Appeal) Rules, 1969 provides that the record of the proceedings of imposition of minor penalties shall include:

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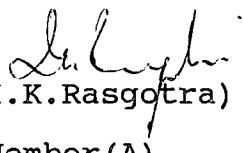
- i) An copy of the intimation to the member of service of the proposal to take action against him.
- ii) A copy of the statement of imputations of mis-conduct or misbehaviour, delivered to him.
- iii) His representation, if any.
- iv) The evidence produced during the enquiry.
- v) The advice of the commission.
- vi) The findings of each imputation of mis-conduct or misbehaviour.
- vii) The orders of the case together with the reasons therefor.

6. The contention of Sh.Rattanpal is that the petitioner was not provided a copy of the advise of the Union Public Service Commission which forms the basis of the imposition of the penalty of censure eventhough the advice of the commission constitutes the record of the proceedings. The petitioner, therefore had no occassion to study the advise of the commission and to submit his explanation before the penalty was imposed. Unless the advise of the commission is furnished to him and his explanation obtained, the petitioner would not be equipped to defend himself by submitting a representation/or in personal hearing because the penalty is actually imposed on him. The denial of

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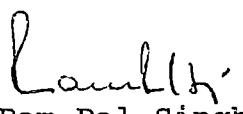
supply of a copy of the advice of the commission is tantamount to violation of the principles of natural justice.

7. We have considered the submissions of the learned counsel for the petitioner carefully. The advice of the commission admittedly constitutes record of the proceedings. It would, therefore, be fair and just to furnish a copy of the advise of the commission to the petitioner in such a case where no detailed enquiry is held. The respondents have failed to meet this essential requirement. We are of the opinion that in view of the provision made in rules, as adverted to above, the order in question was passed in violation of the principles of natural justice. Accordingly, the order dated 8.5.86 passed by the President imposing the penalty of censure on the petitioner, is hereby set aside and quashed. The respondents, however, are not precluded to recommence the disciplinary proceedings against the petitioner after supplying him a copy of the advice of the commission and providing him an opportunity of being heard. The O.A. is disposed of with the above direction and order with no order as to costs.



(I.K.Rasgotra)

Member (A)



(Ram Pal Singh)

Vice Chairman (J)