IN THE CENTRAL ADMINISTRATIVE TRIBUNAL NEW DELHI

O.A. No.

198

	r	OATE OF DECISION_	8-5-1987
	Shri Malkiat Singh	Petitioner	
	, Shri. N.Safaya	Advocate f	or the Petitioner(s)
	Versus	,	
	Union of India & Ors.	Responde	nt
	Shri K.N.R. Pillai	Advocate for	the Respondent(s)
CORAM:		ζ.,	
The Hon'ble Mr. J	USTICE ZAHEER HASAN, VICE CHA	IRMAN	
The Hon'ble Mr. 83	IRBAL NATH, ADMINISTRATIVE ME	EMBER	
1. Whether	Reporters of local papers may	be allowed to see the Jud	dgement ?
2. To be refe	erred to the Reporter or not?		
3. Whether	their Lordships wish to see the	fair copy of the Judgeme	ent?
4. Whether	to be circulated to all the	Benches ?	
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(Birbal)	HTAN	(Z A	Heer Hasan) V.C.

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH NEW DELHI.

O.A. No. 986/86

Date of Decision: 8.5.1987.

Shri Malkiat Singh

. Applicant

Vs.

Union of India & Ors.

Respondents.

CORAM:

Hon ble Mr. Justice Zaheer Hassan, Vice-Chairman.

Hon'ble Mr. Birbal Nath, Administrative Member.

For the applicant:

Shri N.Safaya, Advocate.

For the respondents:

Shri K.N.R. Pillai, Advicate.

(Judgment of the Bench delivered by Mr. Birbal Nath).

JUDGMENT.

The applicant, Shri Malkiat Singh, who was working as Senior Lineman under the Chief Traction Foreman Office, Overhead Equipment, Patel Nagar, New Delhi and who was retired/removed from service by the Disciplinary Authority, had challenged the impugned disciplinary proceedings before the Tribunal and the Bench comprised of Hon'ble Shri S.P. Mukerji, Administrative Member and Hon'ble Shri H.P. Bagchi (Late) Judicial Member had issued the following directions:-

"Q. In the result we allow the petition and quash the appellate order if any. We further

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direct that the impugned order dated 21.6.1985 shall be held in abe-yance with effect from its date of issue. The petitioner should be provided with all necessary documents for filing an appeal whic is mandatory under the rules. Copies of such mandatory documents should be supplied to the petitioner within 15 days andthe petitioner has to file a revised appeal within a month thereafter. The appellate authority should dispose of the appeal within a month of receipt of the appeal in accordance with law. While deciding the case the Appellate Authority should take into account the various averments and allegations made in the present petition and also give the petitioner a personal The impugned order to be held in abeyance will operate subject to and in accordance with the final order of the Appellate Authority on the revised appeal, from the date the final order is passed. The petitioner would be deemed to be under suspension from 21.6.1985 till the date of disposal of the revised appeal and would be entitled to such subsistence allowance as is permissible under In the" Rules.

In pursuance of this direction, the appellate authority the Senior Divisional Electrical Engineer, D.R.M. Office, New Delhi, has rejected the appeal of the applicant and in the appellate order, the appellate authority has discussed the various aspects of the evidence. The applicant has per this application challenged the order of the appellate authority on the ground that the Tribunal had issued a direction that the Appellate Authority would decide the matter after giving a hearing to the applicant. But in the instant case, the Appellate Authority had not given any such opportunity to the applicant.

2. The learned counsel for the respondents at the bar argued that the question of giving a hearing to the applicant did not arise because he had not sought such an opportunity. It was also contended on behalf of the respondents that such a hearing was also not mandated by law.

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advanced at the bar and we find that the appellate order passed on 5th September, 1986 by the appellate authority is defective inasmuch as the applicant was not given a personal hearing as directed by the Tribunal. argument that the applicant had sought no such hearing and thus was not given the same is bereft of logic. Once the Tribunal had given an express direction to give the applicant a personal hearing, the appellate authority was bound to call the applicant and give him a personal hearing unless the order of the Tribunal was challenged in Since no appeal was filed against the judgment of appeal. the Tribunal in the Supreme Court, the appellate authority was bound to comply with the direction of the Tribunal in letter and spirit. Since the same has not been done, the appellate order dated 5th September, 1986 is found to be not in conformity with the directions of the Tribunal and cannot be sustained. This order is, therefore, set aside and the appellate authority is again directed to give a personal hearing to the applicant and after considering all his pleas, pass a detailed order dealing with each of the The appellate authority plea put forth by the applicant. is directed to pass a revised order as directed above within two months of the peceipt of this order. There will be no

order as to costs.

3.

(BIRBAL NATH)
Administrative Member.

(ZAHEER HASAN)