

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH NEW DELHI

Original Application No. 1417 of 1987

P.S. Dchani . . . . . Applicant

Versus

Union of India & Others . . . . . Respondent

Hon'ble Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. S.R. Adiga Member (A)

( Hon'ble Mr. Justice U.C. Srivastava, V.C.)

compulsory  
Against the order of retirement, the applicant who was private secretary in the department of Revenue Ministry of Finance and was attached to the joint Secretary has approached this tribunal. The applicant has challenged the order of compulsory retirement on variety of grounds including that it is a non-speaking and non-reasoned order and has been passed in violation of principle of natural justice and as well as in violation of the Article 311(2) of the Constitution and rule 15(2) of the CCS(CCA) Rules, 1965. Even otherwise it is a malafide order and as a result of the malafides of the newly appointed joint secretary with whom he has worked for 54 days, with the findings which have been so accorded has been assailed on the ground that of course, as there was no evidence which prove the guilt and the findings which have been recorded by the disciplinary authority against him, the vigilance commission without applying its mind is a force findings not supported by the material on the record.

has  
2. The applicant/level has certain charges against the joint Secretary who has served the department for 30 years with whom he worked for 54 days, that was the reasons for annoyance that he did not allow his son to talk from telephone every now and when from United Kingdom without

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making a note of the same and this is how his malafides towards him developed and ultimately one Pakistani national tried to force his entry into the room of Joint Secretary which was resisted by the applicant and the Joint Secretary came out from the room, although, the applicant tried to save the prestige of the office and did not allow ~~to~~ a national to come. The applicant was charged that he has taken 100/- as a bribe from the said Pakistani national Mohd. Din. Though, his case was not that he paid the bribe to the applicant directly, but it was paid towards one Sri R.N. Sharma, Advocate to be paid to the applicant for getting <sup>in his favour</sup> an order ~~which was to be passed by the~~ Joint Secretary in the extension of his visa etc. The applicant was placed under suspension and an enquiry officer was appointed and the enquiry officer conducted the enquiry, although, the matter was concealed, but it was earlier found that the enquiry officer exonerated the applicant from the charge. In the mean time the vigilance commissioner also was examined the matter and the vigilance commissioner was of the view that the guilt against the applicant was true. The disciplinary authority taking into consideration the vigilance report held the applicant to be guilty without ~~any~~ assigning any reason that as to why it was different from the findings so recorded by the enquiry officer who has ~~xxxxxxxxxxxx~~ examined to watch even the conduct of the witness and recorded their statement.

3. Sri Vohra learned counsel for the applicant contended that this application deserves to be allowed only on the ground that Rule 52 of CCS(CCA) which enjoins the

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duty upon the disciplinary authority to record the reasons of disagreement, which have not been recorded, even otherwise the Principle of Natural justice enjoined a duty upon the disciplinary authority to give a show cause notice and representation to the applicant and allow him to have an opportunity to say against the reasons which are to be assigned and the reasons for the difference and in this connection, he made reference to the case of Sri Narayan Ji Mishra Vs. State of Orissa (1969 S.L.R. page 657, wherein it was held that "notwithstanding the amendment of Article 311 of constitution of India, the principle of natural justice is survived and if an delinquent employee was exonerated by the enquiry officer, but the disciplinary authority disagree with the findings for giving of the reasons and the notice and opportunity to the delinquent employee is must and if the same is not done, the same violates the principle of natural justice resulting in quashing of the punishment order. Practically the same position arises in this case, it is not necessary to cite certain other cases, as cited by the learned counsel in this behalf.

4. Sri Khurana learned counsel for the Union of India contended that of course, the disciplinary authority was within its own right that rule 52 of CCS(CCA) does not enjoin upon the duty to issue a show cause notice. Merely, because, the vigilance report has been taken into account that could not be taken to mean that the disciplinary authority did not apply its mind and even if that be so, <sup>giving of</sup> but rule 52 is not exhausted. <sup>some thing</sup> If <sup>the</sup> is not contained in rule, the natural justice supplements it, the principle of natural justice have not been included in the C.C.S.(C.C.A) Rules and rather it keeps the same guide lines. In view of the facts that the principle of natural justice violated and

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indicated earlier, the punishment order cannot suffice and accordingly, this application deserves to be allowed and the compulsory order dated 13.10.1986 is quashed. It is for the disciplinary authority to decide whether they drop the matter or to go ahead. No order as to the costs.

*Anjali*  
Member (A)

*[Signature]*  
Vice-Chairman

Dated: 16.3.1993.

(RKA)