

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

.....

O.A.NO.397/90

DATE OF DECISION: 28.11.91

SHRI KHEM CHAND

.....

APPLICANT

VERSUS

UNION OF INDIA & ORS.

.....

RESPONDENTS

CORAM:-

THE HON'BLE MR. T.S. OBEROI, MEMBER(J)

THE HON'BLE MR. P.C. JAIN, MEMBER(A)

COUNSEL FOR THE APPLICANT : SH. B.S. MAINEE

COUNSEL FOR THE RESPONDENTS : SH. O.N. MOOLRI

**JUDGEMENT**

(of the Bench delivered by Hon'ble Mr. T.S. Oberoi, Member(J)).

In this case, the applicant, who was working as a Cabinman at the Railway Station, Subzimandi, Delhi, was subjected to disciplinary proceedings and a charge-sheet for major penalty was served upon him on 27.9.1989 (Annexure A-2), for allegedly handing over the traffic-key of the relay room to the S & T staff, without obtaining their acknowledgement in the relay room register, and thereby conniving with them in getting leaver No.64 released and lowering of up-hand signal from the relay room, by adopting short cut method and thus causing derailment of a train. The Inquiry Officer appointed in the case held that the charges levelled against the applicant have been proved. The disciplinary authority accepted the inquiry report and, vide Annexure A-1 (page 10 of the paper-book), imposed the penalty of compulsory retirement of the applicant from the service.

Though an appeal was preferred on 11.12.1989 (Annexure A-5) against the penalty imposed, no decision thereon had been taken, and hence this application. The applicant seeks quashing of the imposition of penalty as per the impugned order, and also the directions to the respondents for reinstating him with all consequential benefits of back wages, pay & allowances etc., as if the applicant had not been retired compulsorily.

2. Counter has been filed on behalf of the respondents, denying the applicant's claim, whereas the applicant reiterated his claim, in the rejoinder, filed by him.

3. Though several grounds had been taken up in the application, in support of applicant's case, the learned counsel for the applicant, during arguments, mainly confined to a legal point (para 5.2 of the application), regarding non-furnishing of a copy of Inquiry Report, to the applicant, before imposition of the penalty upon him, as also evident from the left-hand bottom portion of A-I, thereby, by introducing an illegality in the proceedings, carried out against the applicant. The learned counsel for the applicant relied upon a recent judgement of Hon'ble Supreme Court dated 29.9.1990, reported in Judgements Today 199du S.C. 456 (U.O.I. & Ors. Vs. Mohd. Ramzan Khan), in support of his contention.

4. We have considered the contention put forth by the learned counsel for the applicant. In the judgement, *ibid*, it was *inter-alia* held:

"wherever there has been an Inquiry Officer and

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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 hereafter."

5. Further, in a Full Bench judgement dt. 11.7.1990 of this Tribunal (Balwantsingh Kumarsingh Gohil Vs. U.O.I.), reported in Administrative Tribunal Judgements 1991(2) P.278, it has also been held that the above findings shall be applicable in all cases where finality has not been reached.

6. In view of the above, the impugned order imposing the penalty is not sustainable and is hereby quashed. The disciplinary authority will however be not precluded from reviving the proceedings and continuing the same, in accordance with law, from the stage of supply of the enquiry report. There shall be no order as to costs.

*P.C. Jain 28/11/91*  
(P.C. JAIN)  
MEMBER(A)

*T.S. Oberoi 28/11/91*  
(T.S. OBEROI)  
MEMBER(J)