

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
DELHI.

D.A. No. 685/1990.

May 30, 1990.

Shri Kuldip Kumar Applicant.

Vs.

Union of India & Ors. ... Respondents.

Coram:

Hon'ble Mr. Justice Amitav Banerji, Chairman.

Hon'ble Mr. B.C. Mathur, Vice-Chairman (A).

For the applicant ... Shri O.P.Sood, counsel.

For the respondents ... Shri P.P.Khurana, counsel.

(Orders of the Bench delivered by Hon'ble
Mr. Justice Amitav Banerji, Chairman).

This is an Application under Section 19 of the Administrative Tribunals Act, 1985. On 20.4.1990, we passed an order issuing notice before admission to the respondents returnable by 30.5.1990. We also directed them to file their reply indicating "whether the report of the Enquiry Officer was furnished to the applicant before the impugned order was issued imposing punishment of compulsory retirement from service." When Shri P.P.Khurana, learned counsel for the respondents appeared today, we had asked him to look into this matter and let us know the correct position so that this O.A. need not remain pending before the Tribunal and can be disposed ^{of} /at this stage if the Enquiry Officer's report was not furnished to the applicant before the impugned order was passed.

Shri P.P.Khurana very fairly stated before us that

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he had looked into the record of the matter and he reports that a copy of the Enquiry Officer's report was not furnished to the applicant before the impugned order was passed imposing the penalty of compulsory retirement from service. He stated that a copy of the Enquiry Officer's report was only sent to the applicant along with the order imposing the punishment of compulsory retirement.

The above statement made by Shri P.P. Khurana on behalf of the respondents makes the position abundantly clear. It is well settled that Enquiry Officer's report should be given to the delinquent before imposing penalty, so that he may make a representation. In the case of SHRI PREMNATH K. SHARMA Vs. UNION OF INDIA AND OTHERS (1988(3)CAT 449) decided on 6.11.1987 by a Full Bench of this Tribunal, it was held that copy of enquiry report must be given to the delinquent before imposing penalty, and where it is not given the findings of the disciplinary authority, are bad in law and cannot be upheld.

In view of the above, we are of the opinion that this O.A. must be allowed on this short ground alone. We accordingly quash the impugned punishment order dated 3.5.1989. The applicant will be reinstated in service with all consequential benefits and wages for the intervening period. It will, however, be open to the respondents to take action in regard to disciplinary proceedings. The O.A. is accordingly allowed. There will be no order as to costs.



(B.C. MATHUR)
VICE-CHAIRMAN (A)
30.5.1990.


(AMITAV BANERJI)
CHAIRMAN
30.5.1990.