

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH
NEW DELHI.

O.A.No. 1663 of 1992.

New Delhi : this the 8th April, 1996

HON'BLE MR. S.R. ADIGE, MEMBER (A).

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J).

Shri V.K. Peter,
S/O Shri G.S. Peter,
C/o Shri B.S. Mainee,
Advocate,
240, Jagriti Enclave,
Vikas Marg Extn.,
Delhi

.....Applicant.

By Advocate Shri B.S. Mainee.

Versus

1. Union of India through
the General Manager,
Northern Railway,
Baroda House,
New Delhi.

2. The Divisional Railway Manager,
Northern Railway,
Moradabad

..... Respondents.

By Advocate Shri P.S. Mahendru.

ORDER (ORAL)

By Hon'ble Mr. S.R. Adige, Member (A).

We have heard Shri Mainee for the
applicant and Shri Mahendru for the respondents.

2. At the outset Shri Mainee has stated that
the departmental proceedings stand gravely
vitiating on account of the fact that a copy of
the Inquiry report was supplied to the applicant
only along with the impugned Disciplinary
Authority's order dated 5.11.91, and not before,
and hence the entire departmental proceedings
stand gravely vitiated in the background of the
Hon'ble Supreme Court's judgment in M.D. ECIL,
Hyderabad & others Vs. B. Karunakar & others (1993)


25 ATC 704, which lays down that non-supply of a copy of the enquiry report in a departmental proceeding to a delinquent employee to enable him to show cause, before the imposition of the penalty, where such penalty was imposed after 20.11.90 (date of judgment in Mohd. Ramjan Khan's case) constitutes a fatal infirmity to the proceedings.

3. Shri Mahendru has very fairly conceded the above position at the bar.

4. Under the circumstance, without going into the other grounds raised by the applicant, on the ground mentioned in paragraph 2 alone, we hold that the Disciplinary Authority's order dated 5.11.91 and the appellate authority's order dated 29.4.92 cannot be sustained. Both these orders are therefore quashed and set aside.

5. Respondents are directed to reinstate the applicant within one month from the date of receipt of a copy of this judgment. It will be open to them to take up the departmental enquiry from the stage of supply of a copy of the enquiry report to the applicant, and in the event that they do so, they should also determine the manner in which the intervening period is to be treated in accordance with relevant rules and instructions on the subject, while passing orders in the matter.

6. This O.A. is disposed of in terms of paragraphs 4 and 5 above. No costs.


(LAKSHMI SWAMINATHAN)
MEMBER (J)


(S.R. ADIGE)
MEMBER (A).