

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

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Registration T.A. No . 406 of 1986
(C.A. No. 475 of 1984)

Reep Narain Yadav

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Applicant/
Appellant.

Versus

Union of India
and others

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Respondents.

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Hon. Mr. Justice U.C. Srivastava, V.C.
Hon'ble Mr. K. Obayya, Member (A)

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicant who was working as 'Extra Departmental Branch Post Master was suspended from his service on 23.8.1981. He was also served with a charge-sheet on 30.9.1981. He has submitted his written statement. An enquiry officer was appointed. The enquiry officer has submitted his report but the disciplinary authority did not agree with the findings recorded by the enquiry officer and has passed an order dismissing the services of the applicant. Thereafter, the applicant filed a suit against the same in the court of Munsif Haweli, District Azamgarh and has pleaded that he has not been given any opportunity of hearing and the applicant was not examined and he was not allowed to cross examine the witnesses and the witnesses who were named were also not examined. The applicant has further pleaded that if the disciplinary authority did not agree with the findings recorded by the enquiry officer, he should appoint a fresh enquiry officer instead of recording the findings against him and awarding the punishment. The respondents have filed a written statement and have opposed the

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claim of the applicant and have said that the decision of the disciplinary authority was in accordance with law, and the superior authority has right to hold an enquiry and further the applicant has right to file an appeal before the superior authority.

2. Accordingly, this application deserves to be allowed on the ground of violation of the principles of natural justice because if the disciplinary authority disagrees with the findings recorded by the enquiry officer, he will have to give the reasons of his disagreement and a show cause notice will also be given to the applicant which will enable him to file an effective representation but the same was not done in this case which violates the principles of natural justice. In this connection a reference has been made to the case of Nara-yan Misra Vs. State of Orissa, 1969 SLR page 657. Accordingly, this application is allowed and the order dated 15.6.1984 dismissing the applicant from service is quashed. However, it will be open for the disciplinary authority to go ahead with the enquiry proceedings in case he chooses to do so after giving him an opportunity of hearing and also opportunity to file representation to the applicant. However, we make it clear that, although the applicant has been reinstated in service but he will not be entitled to any back wages during this period because he has not worked within this period. Let the enquiry, if any, be concluded within a period of three months from the date of communication of this order. No order as to the costs.

Member (N)

Vice-Chairman

Dated: 16.10.1992
(n.u.)