

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD.

O.A. No. 653 of 1986 (T)

Shri Mool Chand Applicant

Vs.

Union of India & Others .. Respondents

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

Hon. Mr. K. Obayya, Member (A)

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

This is a transfer application u/s. 29 of the Central Administrative Tribunal's Act, 1985. The applicant, against the removal order, filed a suit in the Court of Civil Judge, Jhansi. By operation of law the same has been transferred to this Tribunal. The applicant was originally appointed as Y.K.C. in Steam Loco Shed, Jhansi. A charge sheet was served upon the applicant. According to the applicant he was completely in dark and the enquiry was conducted in his absence which is in violation of the articles 311 of the Constitution of India. The appellate order has also been challenged on the ground that it is cryptical and mechanical.

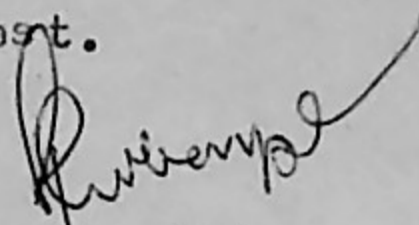
2. The enquiry was an exparte enquiry as he was not informed of the Enquiry Officer's sitting and as such no reasonable opportunity was given to the applicant. It is true that the enquiry was an exparte enquiry. According to the respondents a letter was sent to the applicant's home address which was served upon him on 12-3-82. Thereafter another letter dated 6-4-82 was sent

to the applicant and it was returned back undelivered by the postal authorities and was pasted on the notice board. The Enquiry Officer stated that a Registered letter dated 21-5-1982 was sent to the applicant's home address but the same was also returned undelivered with the postal remarks that the "addressee is out of station, hence return". Thus, according to the respondents, opportunity of hearing was given to the applicant and as he did not appear and the charges of unauthorised absence was established and the removal order was passed.

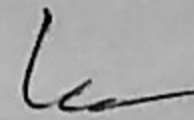
3. Undoubtedly the first notice was received by the applicant and the subsequent notices were not received by him. Even if it is stated that the applicant was avoiding to receive the subsequent notices it is clear that no notice regarding the Enquiry Officer's sitting was served upon the applicant. If the applicant was given an opportunity, he would have submitted his representation against the said enquiry proceedings which would have led the disciplinary authorities to give a different finding. Thus, a reasonable opportunity of hearing was denied to the applicant and, therefore, this case is covered by the decision of the Supreme Court (A.I.R. 1991 - page 471-S.C.) in the case of Union of India and Others Vs. Mohd. Ramzan Khan. In view of the above facts, the application is allowed and the removal order dated 31-3-83 and the appellate order dated 7-5-84 are quashed and the applicant is deemed to be in service. However, this will not lead to any ratio regarding the payment of salary etc. during his absence. It will be open for the disciplinary authorities to go ahead with

the enquiry proceedings. The applicant should be given a copy of the enquiry report and reasonable time to file his objections etc. on the Enquiry Officer's report in case the decision of the disciplinary authorities is to go ahead with the enquiry proceedings.

4. The disciplinary authorities should consider the assertions of the applicant that no opportunity whatsoever was given to the applicant and the exparte enquiry was wholly unjustified as the service of first notice is not enough and the subsequent notices were not received by him as they were returned by the postal authorities undelivered, which would amount to service of no notice to the applicant. No order as to the cost.



Member (A)



Vice-Chairman

Dated 24th April, 1992, Allahabad.

(tgk)