

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

T.A. No.779/86
(O.S. No.104/85)

Nathu Ram Applicant

Vs.

Union of India & Others Respondents

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

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

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

This application has been received on transfer u/s.29 of the Administrative Tribunal's Act, 1985. The applicant, against the removal order and dismissal of departmental appeal, has filed a Suit in the City Civil Court of Jhansi and by operation of law the same has been transferred to this Tribunal. The applicant was an employee in the Central Railways, Jhansi. The grievance of the applicant is that no opportunity whatsoever was given to him and the enquiry was an exparte enquiry and as such reasonable opportunity to defend himself was denied. According to the applicant, no enquiry in accordance with the rules was conducted. The respondents, in the written statement, stated that a notice was sent to the applicant. The charge against him was he remained unauthorisedly absent from duty from 30-7-83 onwards. The notice was sent to him on 1-2-84 which was received by him. Another notice was sent to the applicant which was returned back by the postal authorities with the remarks that the addressee is away from home for indefinite period. Subsequently

another notice was also sent to the applicant which was also returned undelivered by the postal authorities with the same remarks. Thereafter a notice was pasted on the notice board. Therefore, no option was left with the departmental authorities but to go ahead with the enquiry proceedings. According to the respondents, that is why the exparte enquiry was conducted. In case the enquiry was conducted in accordance with law and a copy of the enquiry report would have been given to the applicant, he could have pointed out the flaws and shortcomings of the report in his representation which would have led the disciplinary authorities to a different finding. Therefore, a reasonable opportunity to defend himself was denied to the applicant, which is in violation of the principles of natural justice. Thus, this case is covered by the decision of the Supreme Court in the case of Union of India & Others Vs. Mohmd. Ramzan Khan (A.I.R. 1991 - page 471 - 5.C.). Accordingly the application is allowed and the removal order dated 31-5-84 and the appellate order 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 the period of his absence. It will be open for the disciplinary to go ahead with the enquiry proceedings. The applicant should be given reasonable opportunity of hearing, he 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 ^{authority} is to go ahead with the enquiry proceedings.

3. The disciplinary authorities should consider the assertions of the application that no opportunity whatsoever was given to the applicant and the exparty 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 and denial of reasonable opportunity to the applicant. No order as to the cost.

Member

(A)

Vice-Chairman

Dated: 24th April, 1992, Allahabad.

(Tgk)