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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration T.A. No.998 of 1986

(W.P. No.5244 of 1985)

K.C.Beharwal Petitioner

Versus

Union of India & Others Respondents

Hon.S.Zaheer Hasan, V.C.

Hon. Ajay Johri, A.M.

(By Hon.S.Zaheer Hasan, V.C.)

This Writ Petition No. 5244 of 1985 has been transferred to this Tribunal under Section 29 of the Administrative Tribunals Act XIII of 1985.

2. The applicant K.C.Beharwal was working as Labour Enforcement Officer since 1962. On 4.2.1980 certain charges were levelled against him and explanation was called. He replied on 7.2.1980. On 1.12.1980 a chargesheet was handed over to him containing eight charges and mentioning 99 documents therein. On 31.3.1982 he submitted a list of documents and the witnesses to be produced in his defence. Against each document he has mentioned name of witness vide Annexure-7. On 5.5.1982 vide Annexure-8 the Inquiry Officer rejected this application on the ground that four of the documents were not relevant and regarding the remaining documents the applicant had not given relevancy of the defence

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witnesses nor he has given the relevancy and custodian of the documents. On the same date he fixed 5th to 8th July, 1982 for hearing. Shri R.B.L. Awasthi, Sr. Supdt. Post Offices, Moradabad was appointed as defence helper. On 30.6.1982 he informed the Inquiry Officer that he will not be available due to official meeting at Lucknow which will be attended by Minister and other high officers of the Department. The applicant also sent a telegram to the Inquiry Officer informing him that the defence helper will not be available on 5 to 8th July, 1982 so the hearing should be adjourned. On 5.7.82 the applicant did not appear so the Inquiry Officer proceeded *ex parte*. He has observed in his order that he was refusing adjournment prayed in the telegram and the application of Shri R.B.L. Awasthi keeping in view the past conduct of the applicant in attending various hearings before him. He further observed that it was upto the applicant to ensure the attendance of the defence helper. Thereafter on 6.7.82 three witnesses were examined in support of the charge and the defence was considered as closed. On 28.7.82 he gave a finding that the charges were proved. The findings were accepted and the disciplinary authority passed the dismissal order on 8.10.82. The Departmental Appeal was rejected on 6.7.84 and thereafter the present petition was filed.

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3. We think that this petition can be disposed of on a short point. From the above it would appear that Shri R.B.L.Awasthi sent a letter on 30.6.82 requesting for adjournment of the hearing on 5.7.82 and onward on the ground that he will be at Lucknow in connection with an official meeting which will be attended by a Minister and other high officers of the Department. The Inquiry Officer rejected the prayer of adjournment and proceeded ex parte on the ground that it was upto the applicant to ensure the attendance of the defence assistant and in view of the past conduct of the applicant it was not a good ground for adjournment that his defence assistant was not available. In view of the official meeting to be held the defence helper could rightly pray for adjournment of the hearing as such there was no good ground for refusing the adjournment. We do not feel that the Department would have suffered any harm if the case had been taken up after a few days. Of course it was the duty of the applicant to ensure the attendance of the defence helper. But in view of the circumstances mentioned above the Inquiry Officer was not justified in rejecting the prayer for adjournment. The order of dismissal as well as the departmental appellate order are set aside with the following directions.

The applicant will give a list of documents mentioning therein the relevancy of the same and the

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places from where they are to be summoned. He will also mention the name of witnesses to prove particular document. He can also summon other witnesses in support of his defence apart from formal witnesses who are required to prove certain documents. After receipt of this application the Inquiry Officer will pass suitable order thereon and fix a date of hearing. It will be open to the applicant to inform his helper well in time about the date fixed by the Inquiry Officer. Thereafter the witnesses should be examined in presence of the applicant and cross-examination should be permitted. After following the proper procedure a final order should be passed.

4. Under the circumstances of the case parties to bear their own costs.

Yissu.
Vice Chairman

BBTR *MB*
Member (A)

Dated the 15 Dec., 1987

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