

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

.....

(Registration T.A. No. 1151 of 1986)

Shyam Sunder Singh.....Applicant

Vs.

Union of India & Others.....Respondents.

Hon'ble Mr. D.K. Agrawal, Member (J)
Hon'ble Mr. K. Obayya, Member (A)

(By Hon. Mr. D.K. Agrawal, J.M.)

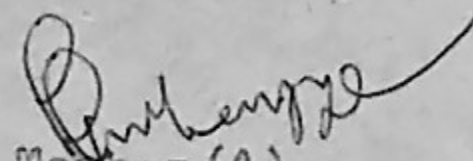
Original Suit No. 1604 of 1984 instituted in the Court of Munsif (City), Kanpur on transfer to the Tribunal under Section 29 of the Administrative Tribunal Act, 1985 was registered as T.A. No. 1151/86.

2. The claim petition is directed against the punishment order dated 20.3.1983 and 24.5.1984. The order passed by the Appellate Authority has not been brought on record. The punishment orders have been challenged on various grounds. However, we do not consider it necessary to go into the merits of the case because we notice that one of the grounds raised by the learned counsel for the applicant is that before the disciplinary authority passed the punishment order, the applicant had not been furnished with the report of enquiry officer on the basis of which the disciplinary authority proceeded to pass the impugned order. It has also been brought to our notice that the Enquiry Officer exonerated the applicant while the disciplinary authority had not agreed with the findings of the Enquiry Officer without affording an opportunity of hearing or representation to the delinquent employee, the disciplinary authority inflicted the punishment of removal from service. Even in the earlier decisions it was held that as and when the disciplinary authority does not agree

D.K. Agrawal

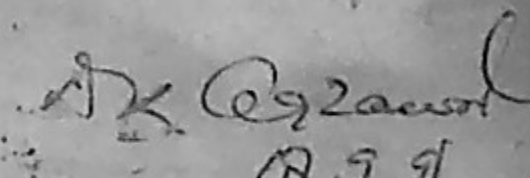
the findings of the Enquiry Officer, if becomes necessary for the disciplinary authority before recording findings to the disadvantage of the delinquent government servant that an opportunity should be given to him. The point stands settled by the latest decision of Hon'ble Supreme Court in the case of Union of India Vs. Mohd. Ramzan Khan and others reported in Judgment Today 1990(4) Supreme Court 456. The Supreme Court, after consideration of earlier decisions held that the obligation to furnish a copy of the Enquiry Report in disciplinary proceedings before the order is passed by the disciplinary authority is an obligation arising out of principles of natural justice and remains unaffected by 42nd Amendment of the Constitution of India.

3. The application is therefore, allowed and the impugned orders dated 20.3.1983 and 24.5.1984 are set aside. It shall, however, open to the respondents to draw proceedings from the stage immediately after the submission of the Enquiry Report. The disciplinary authority shall provide an opportunity to the applicant to make a representation within the specified time and thereafter pass order in accordance with law. The applicant will have a right to prefer an appeal in accordance with law. The applicant will also be at liberty to approach us, if so, advised in the decision of the Appellate Authority. There will be no order as to costs.


Member (A)

18th September, 1991.

(sph)


18.9.91
Member (J)