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CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

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Transfer Application No. 981 of 1987

R.C. Mishra Applicant

Versus

Union of India and others Respondents.

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

Hon'ble Mr. A.B. Gorthi, Member (Administrative)

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

The applicant entered the service as a clerk in the Northern Railway in the year 1959. It appears that as a result of change of ^{date of} birth of an employee who prayed for it the applicant was charge-sheeted. The applicant submitted his reply and enquiry officer was appointed and enquiry officer after examining the witness submitted his report on 15th September, 1981 holding the applicant guilty of the charge that he deliberately corrected the date of birth of Ram Dulare in his appointment ^{and} ~~and~~ he also removed from records the original document ⁱⁿ ~~in~~ support of his age. The enquiry officer suggesting punishment submitted his report to the disciplinary authority. The disciplinary authority agreed with the finding of the enquiry officer and punished the applicant by passing an order compulsory ^{and} retiring him from service before attaining the age of superannuation.

2. Prior to the passing of the said order ^{with} ~~that~~ the enquiry officer nor disciplinary authority gave report of the enquiry officer to the applicant to enabling him to file his representation against the enquiry proceeding of the finding of the proposed punishment.

3. The applicant filed departmental appeal against the penalty order which was dismissed on 30th January, 1982. Whereafter the applicant filed the writ petition before the

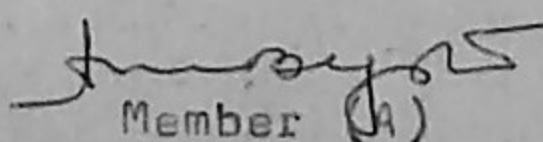
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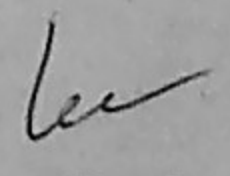
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High Court which has been transferred to the Tribunal. The Applicant has challenged the enquiry proceeding in the finding thereon variety of ^{grounds}. One of the grounds which have been taken by the applicant is that the enquiry officer's finding was not given to him prior to the passing of the punishment order with the result ^{that} he was deprived of ^{an} ~~an~~ ² opportunity to file an effective representation against the same and this was in violation not only against the Railway Servant disciplinary and conduct Rules, but against the principle of Natural Justice

4. In this connection, reference has been made to the case of Union of India Vs. Mohammadd Ramzan Khan, A.I.R. 1991 Supreme Court page 471 in which it has been held that notwithstanding the ~~definition~~ ^{provisions} of Article 311 sub-clause II of Constitution of India, if in a case an enquiry officer has been appointed and he submitted his report and holding the delinquent employee to be guilty and proposing the punishment giving of ^{the} this copy of the same is must to the delinquent ^{employees} enable him to file an effective representation against the same, if that is not done, the same ^{violates} ~~while its~~ the principles of natural justice in as much as the employee is deprived of reasonable opportunity to defend himself, which vitiated the enquiry proceedings. The same position arises in this case and accordingly, this application is allowed and the retirement dated 21.9.1981 and the appellate order is quashed. The applicant will be deemed to be continuing in service. However, this will not preclude ^{the disciplinary authority} ~~enquiry officer~~ from going head with the enquiry proceeding beyond the stage of giving a copy of the report of the enquiry officer and given him reasonable time to file the objection against the same and thereafter pass an order in accordance with law. No order as to the costs.


Member (A)


Vice-Chairman.

Allahabad dated 14th January, 1992.
(RKA)