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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

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Registration T.A. No. 1373 of 1987
(Writ Petition No. 7532 of 1983)

Dev Lal and others Applicants/
Petitioners.

Versus

Divisional Railway Manager
and another Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. A.B. Gorthi, Member (A)

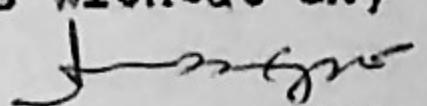
(By Hon. Mr. Justice U.C. Srivastava, VC)

The petitioners were working as cleaners in Northern Railway Chunar under the Divisional Control of the respondent no. 1. A memorandum of charge-sheet was issued to all these applicants on 23.4.1981 containing 2 charges. The charge against them was that an officer was assaulted by these persons. A departmental enquiry proceeded and the applicants denied the charges against them. The witnesses were examined. After going through the statement of the witnesses, the enquiry officer exonerated the applicants. The disciplinary authority awarded did not agree with the findings of the enquiry officer and a punishment of reduction to the bottom of his present grade for the period of 3 years. The applicants filed a departmental appeal, The appellate authority by an order, which can not be said a speaking order, held that these persons are responsible for assault to Sri D.K. Singh and normally in such behaviour higher punishment should be given but a lenient view has been taken and the punishment the

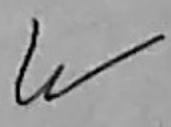
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is reduced to reduction to lower time scale for 2 years. The applicants have challenged the enquiry proceedings more or less on the ground of ~~the~~ facts. No show cause notice was given to them by the disciplinary authority who was disagree with the findings of the enquiry officer. If the disciplinary authority dis-agree with the findings of the enquiry officer, even if there is no statutory ~~the~~ provisions to give a show cause notice but it was incumbent to the disciplinary authority to give a show cause notice to the applicants in conformity with the principles of natural justice. It has been held in the case of Sri Narain Mishra Vs. State of Orissa, 1969, SLR page 657, Wherein, it has been held that even if there is no specific provisions and the disciplinary authority dis-agree with the findings of enquiry officer, who exonerate the delinquent employee, the giving of show cause notice is must and without taking the version of the delinquent employee, no punishment, as such, can be imposed. The same question is involved in this case also.

2. Accordingly the punishment order is vitiated and the application is allowed. Both punishment order as well as appellate order are quashed. However, it will open for the disciplinary authority to give a show cause notice to the applicants and thereafter, to decide as to whether the guilt against the applicants have been ~~in case the same has been proved, what~~ proved or not and ~~the~~ punishment should have been given to them. The applicant shall pass a speaking order. The applicant will be entitled to the consequential benefits. The application is disposed of with the above terms without any order as to costs.


Member (A)

(nu) 25.2.1992


Vice-Chairman