

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL (ALLAHABAD BENCH)
ALLAHABAD.

C.A. NO.
T.A. NO.

1673/87

OF 199

Date of decision:- 19.8.92

..... Nathoo Ram Petitioner

..... Sri Satya Vijay Advocate for the Petitioner.

Versus

..... Union of India & others Respondent

..... Sri M. K. Gopal Advocate for the Respondent(s)

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CORAM:-

The Hon'ble Mr. Justice U. C. Sinhashtava - U.C.

The Hon'ble Mr. K. Abayya - A.M.

1. Whether Reporters of local papers may be allowed to see the judgment? *N*
2. To be referred to the Reporter or not? *N*
3. Whether their Lordships wish to see the fair copy of the judgment? *N*
4. Whether to be circulated to all other Benches? *N*

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Signature

Naqvi/

THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH--ALLAHABAD.

T.A. NO. 1673 of 1987.

Nathoo Ram..... Petitioner.

Versus

Union of India & others..... Respondents.

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

Hon'ble Mr. K. Obayya -A.M.

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

The applicant was appointed as a Telephone Operator in Signal and Telecommunication Department in Izzatnagar Division at Fatehgarh.

2. According to the applicant he belongs to the freedom Fighter family. He found that the Railway Employees are divided into two active Unions. He had taken part in various activities. He has given the names of few persons who were enemically, want to dispose of him. So long as one party and a particular party Government was there according to him they could not raise their head, when Janta Party came into power in the year 1977, these persons who were supporters of the strike in the year 1974, which was opposed by the applicant raised their head against the applicant. The applicant made certain complaints against these persons regarding their acts of omission and commission and taking an un-due benefit and undue advantage and rather they corrupt means adopted by them, offered to get un-due benefit.

3. It appears that as a result of complaint made by the applicant, the matter was referred to Vigilance. After vigilance report a charge-sheet was served upon the applicant on 16.1.80 charging the applicant for making all these false complaints, which could not be proved during investigation by Vigilance Branch before which the applicant also appeared. Thus according to the Administration he committed serious mis-conduct ~~xxxxxxxxxxxx~~. The applicant inspite of giving reply moved an application that the copies of particular documents be given which were not given to him. Though he moved ~~xx~~ application again and again. Four documents

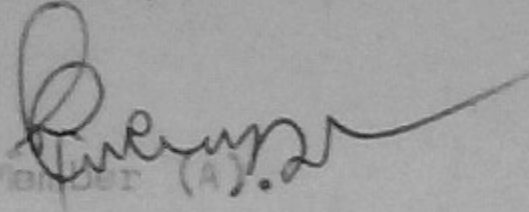
were mentioned in the charge-sheet - (1) Complaint of the applicant dated 5.5.78. (2) Complaint dated 1.6.79 (3) His statement dated 26.8.79. (iv) T.A. Journal of Shri Shiv Kant, A.S.I. Fatehgarh for the months of January, 1978 and March, 1978 to June, 1978. But the copy of the vigilance report was also ~~xxxxx~~ demanded by the applicant and subsequently he demanded certain other documents, but the documents were not given to the applicant and according to the applicant he did not hear any thing from the authority and the only thing which he got, was the order of removal by which he was removed from service. He filed a departmental appeal which was also dismissed. Whereafter he filed the Writ Petition before the High Court challenging the said order alleging the grounds. The main ground of the applicant is that applicant was not given due reasonable opportunity of hearing to enable him to defend himself properly and the documents which were very necessary for the defence were not supplied to him, with the result he was disabled for making effective defence to clear himself out of same.

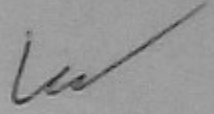
4. The respondents have refuted the allegations made by the applicant and pointed out that his record is not good earlier as he was involved in 10 cases in which he was awarded punishment and the rest four cases could not be finalised, which were still pending when he was removed from service. It has been stated that the details has been made/as to how efforts were made for service on the applicant and the applicant who earlier participated the enquiry absented himself and ~~and~~ even he did not accept the notices which were sent to him through registered post and and deliberately he avoided to participate in the inquiry proceedings in respect of which notices were sent, but the letters were also placed at the exchange that is the place of his duty. Some times also it was given to defence counsel, but not available. The applicant has safely ignored all these facts and has not stated anywhere that in fact he participated in the proceedings and appointed a defence counsel. It could be said that it is a case

of concealment first. It appears that applicant has been raising a grievance for non supply of the document. We have gone through the list of the documents which were demanded by the applicant. He has claimed ~~x~~ irrelevant documents which were not very relevant for the purposes of the inquiry. But the Vigilance Officers report which were taken into account by the Enquiry Officer, this must have ^{been} sent. The Enquiry Officer should have been given ^{the vigilance report} to the applicant which could not have been given to the applicant to enable him to defend his case properly. As the vigilance report was against the applicant, in which he reported the charges made by the applicant was not substantiated. The various other documents which were prayed for by the applicant regarding the complaint and that proof of the complaint made by the various persons Hanuman Prasad and others. The applicant was thus even in the inquiry played double role, not only this that he was defending himself but he ^{was} also trying to play a role of prosecution, but as the applicant's conduct ^{authority which} itself was under challenge. The disciplinary/ has given an opportunity of hearing and which he considered to be adequate, So far the notices are concerned, ~~should have~~ either to allow to inspect the relevant document or to give copy of the same. but particularly that of the vigilance report, ~~xxx~~ that was not given and as such it can be said that reasonable opportunity to this effect was denied to the applicant. In these circumstances the punishment order and the appellate order deserves to be quashed. However the inquiry will be deemed to be continuing ^{and} ~~x~~ the applicant will be allowed to participate in the inquiry, but allowing him for inspection of vigilance report and the documents mentioned in the charge. Let the Enquiry Officer who so may be, to give an opportunity of inspection of all the relevant documents and for ^{permitted.} which a date will be fixed and the applicant shall be/ to give the ^{and} reply within 15 days from the date of inspection of the documents, / The Enquiry Officer shall conclude the Enquiry within a period of three months thereafter and applicant shall fully co-operate with the inquiry, as to whether the applicant will be entitled to any

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benefit during the period, shall only follow the result of the inquiry. No order as to the costs.


Member (A).



Vice Chairman.

Dt: August 19, 1992.

(DPS)