

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH  
Registration T.A.No. 1856 of 1987

P.B.Srivastava ..... Applicant

Vs.

Union of India & Others..... Respondents

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

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

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

The applicant was appointed on 19th April, 1942 as a Clerk in the office of Divisional Superintendent, Allahabad in the Transportation Branch. He was promoted as Senior Clerk in year <sup>the</sup> 1958 and then as Head Clerk in July 1964 and thereafter he was promoted as Assistant Superintendent Transportation in July, 1975 and since then he has been continuously holding the said post till the date of superannuation i.e. 31st January, 1981. But on 13th August 1979 the applicant was suspended by the Divisional Safety Officer and thereafter the applicant was served with a chargesheet on 29th November, 1979 containing two charges. The charge against the applicant precisely was that he was issuing fraudulent letters under his signatures authorising withdrawal from station earning ex-gratia payments sanctioned to numerous staff without actually obtaining sanction of the competent authority and he also destroyed documents/Official papers of the files from which such fraudulent letters were issued to stations authorising payments. The applicant submitted his reply and requested that the copies of the relevant documents be supplied to him, but no reply was given and nor the documents were supplied to him. An Inquiry Officer was appointed and the applicant engaged one Shri Babulai Verma Station Master as Defence Assistant in the said departmental proceedings.



The date fixed for holding the inquiry was 26th March, 1980. The applicant filed a representation on that date mentioning therein that he has not been given the copy of the report of the fact finding inquiry/investigation report which was conducted against him and he also requested that a copy of the said report may be given to him as it is absolutely necessary for his defence. But no reply to the said representation has been given to the applicant. Thereafter the applicant submitted his reply on 28th March, 1980 denying the charges against him and in reply he again made an emphasis that he had not been supplied with the copy of the fact finding enquiry report on which basis the charges were framed against him. As the applicant found that without supplying the documents and without giving him opportunity to defend himself the respondents are conducting the departmental inquiry he filed a Suit in the Court of Munsif and the Munsif granted an interim order on 5th April, 1980 staying the departmental proceedings. The department filed an application for the modification of the interim order and the interim order was modified on 23rd May, 1980 stating that, "the appellant may pass order but implementation will not be done until decision of appeal". No information was given to the applicant and in the meantime he attained the age of superannuation. Later on the applicant was told that he has been dismissed from <sup>service</sup> ~~service~~ although the dismissal order was never served upon him. The applicant further stated that the report of the ex-parte inquiry was also not given to him which <sup>made</sup> ~~unable~~ him <sup>unable</sup> to file representation against the same. Against the dismissal order the applicant filed a Writ Petition before the High Court and which by operation of law has been transferred to this Tribunal.

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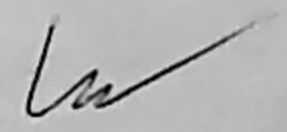
2. Apart from referring the other ground the applicant has also challenged the competence of the officer who has issued the chargesheet and passed the dismissal order as according to him he was not the appointing authority and was not competent to issue chargesheet and to take action against him.

3. The respondents in their Written Statement gave no reply so far as the competence of the officer who <sup>is concerned</sup> issued the chargesheet and passed the dismissal order. But they have stated that the dismissal letter was sent by registered <sup>post</sup> at his home address and the Postman made several efforts to deliver the same but the applicant was not available at the given address and the registry returned back undelivered. There was no refusal by the applicant and in these circumstances it cannot be said that that the notices were served personally to the applicant and this unable him to note the date of the inquiry. Obviously the applicant was deprived of an opportunity to defend himself in respect of the charges which has resulted in dismissal from service. Even otherwise the inquiry was an ex-parte inquiry it was obligatory on the Disciplinary Authority to give the Inquiry Officer's report to the applicant before passing the final order. But the applicant was deprived of the reasonable opportunity to defend himself and to challenge the findings of the Inquiry Officer. In view of the ~~fact~~ what has been stated above the entire inquiry proceeding is vitiated and accordingly the application is allowed and the dismissal order dated 23.5.80 is quashed and it will be deemed that the applicant was continuing in service.



However as the chargesheet has already been served on the applicant and the applicant had filed the reply it will be open for the respondents in case they decide to go ahead with the inquiry proceedings that inquiry should be conducted in accordance with law after giving reasonable opportunity to the applicant to defend himself. There will be no order as to costs.

  
Member (A)

  
Vice-Chairman.

25th February, 1992, Alld.

(sph)