

(38) A2
1

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

Misc. 613 of 1992 (In O.A. 318/87)

S.K. Srivastava Applicant

Versus

Union of India & Ors Respondents

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

Hon. Mr. K. Obayya, Member(A)

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

The applicant was suspended vide order dated 18.5.83 by the General Manager, Ordnance Factory Kanpur and the applicant was served with a charge sheet dated 1.12.1983. The charge sheet against the applicant was committing forgery and playing fraud with the government. The departmental enquiry was conducted. The applicant had been removed from service on the basis of enquiry report submitted by Enquiry officer. During the course of enquiry the applicant was reverted from the post of Supervisor Gr. A to the post of Supervisor Gr. B during probationary period. He was also suspended during probationary period.

2. After departmental enquiry he was removed from the service on the basis of enquiry report submitted by the enquiry officer. The applicant filed an appeal on 24.4.1986 and against removal order, ^{and against reversion} appeal dated 7.7.85 to the Addl. Director General Ordnance Factory

A-2
3
23

:: 2 ::

Board Calcutta. Both the appeals are pending with the authorities and no decision over the appeals have been communicated so far and that is why the applicant approached this Tribunal.

3. The applicant has requested by his application for change of Enquiry officer and also demanded legal practitioner for defending his case by application dated 22.10.84. In the enquiry on account of being serious nature of charges, ~~but~~ the applicant has not been provided any opportunity of being heard.

4. The General Manager or disciplinary authority did not exercise their discretion hence the provisions of natural justice have been violated in the case of the applicant. The charge sheet ~~has~~ not been annexed with material documents. The applicant has been denied with reasonable opportunity in defending himself and he was not given reasonable opportunity/being heard, the provisions of natural justice and rules have been violated. The findings of the enquiry officer is perverse and bad in law and based on irrelevant considerations. Article 311 of the Constitution of India have been violated when the order of reversion and punishment order both are against the provisions of natural justice. The relevant statement of applicant during enquiry and the report of the inspection have not been supplied to the applicant nor he had been given full opportunity to present himself in the enquiry, hence the enquiry was conducted against the provisions of natural justice and against the provisions of Article 311 of the Constitution of India as well as Article 14 & 16 of the Constitution of India and also against Rule 14 and 15 of CCA Rules 1964. The case

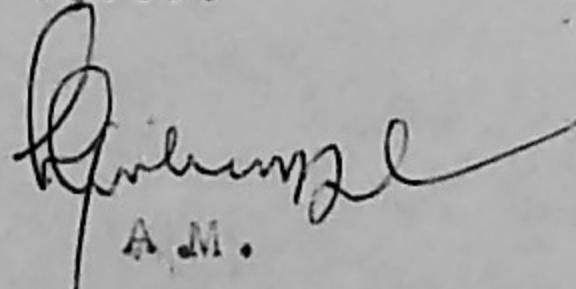
A2
JF

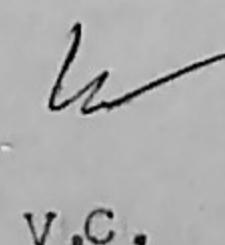
(24)

: : 3 : :

in question is referred by the case, Union of India Vs. Mohd. Ramzan Khan (1991 S.C. Page 472) decided by Hon'ble Supreme Court in as much as the applicant was not supplied a copy of the report of the enquiry officer before imposing the punishment and the applicant was not afforded opportunity to make submissions on the enquiry officer's report, hence the punishment order is vitiated.

5. The learned counsel for the applicant contended that the enquiry was not warranted by law ~~on the ground of excessive and unnecessary~~ and the same cannot be sustained in the eyes of law and he also challenged the order passed by the disciplinary authority without issuing any show cause notice to the applicant for disagreeing with the findings recorded by the enquiry officer ^{and} awarding the punishment and thereby he acted in violation of principles of natural justice in as much as reasonable opportunity to defend was not given to the applicant. Accordingly this application is allowed. The punishment order dated 8.4.1986 is quashed and the applicant be reinstated in his service. However, it will be open for the disciplinary authority to go ahead with the report of the enquiry officer after giving a reasonable opportunity to the applicant. No order as to the costs.


A.M.


V.C.

Dated: 22nd April, 1992

(Uv)