

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH

Original Application No.565 of 1987

Shri Kedar Nath Singh .. Applicant

Versus

Superintendent Posts,  
Sultanpur and Others .. Respondents

Shri R.K. Tewari .. Counsel for Applicant  
Shri K.C. Sinha .. Counsel for Respondents

Hon. Mr. D.K. Agrawal, J.M.

Hon. Mr. K. Obayya, A.M.

( By Hon. Mr. D.K. Agrawal, Member (J) )

1. This application Under Section 19 of the Administrative Tribunal Act 1985 is directed against the punishment order of removal from service dated 31.5.1984 confirmed in appeal vide order of appeal dated 31.3.1987.

2. The applicant while working in the postal department as Extra Departmental Branch Post Master at Pakarpur branch Post office in district Sultanpur had to be put off from duty on account of some misconduct. Thereafter an enquiry was instituted and on the basis of the report of the Enquiry Officer, the Disciplinary Authority passed an order of removal

*D.K. Agrawal*

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from service on 31.5.1984. One of the grounds inter alia is that the delinquent employee was not supplied with a copy of the report of the Enquiry Officer before the infliction of punishment. The factual position is <sup>conceded</sup> considered to in paragraph No.5 of the counter affidavit. Consequently the rule of 'audi alterem partem', one of the basic principles of rule of natural justice has been violated. The Supreme Court in the case of Union of India Vs. Mohd. Ramzan Khan (A.I.R 1991 Supreme Court page-471) has already been laid down that the violation of the said basic rule of natural justice vitiates the order despite 42nd Amendment of the Constitution. Therefore without going into the merits of the case the impugned order of punishment dated 31.5.1984 as confirmed in appeal vide order dated 31.3.1987 has to be quashed with the liberty to the Disciplinary Authority to start the disciplinary proceedings from that stage after furnishing a copy of the report of the Enquiry Officer and affording an opportunity to the charged official to make his submissions to the Disciplinary Authority.

3. In the result the petition is allowed. The impugned order of punishment and the appellate order are hereby set-aside with the liberty to the Disciplinary Authority to start afresh, <sup>the proceeding</sup> if so desire, after furnishing a copy of the report of the Enquiry Officer

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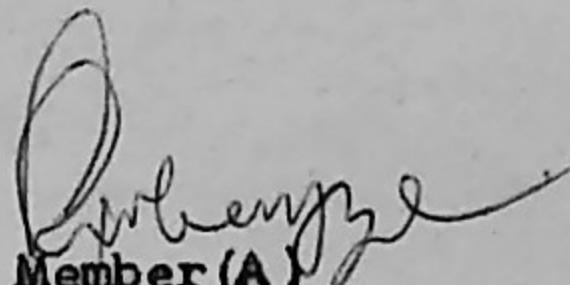
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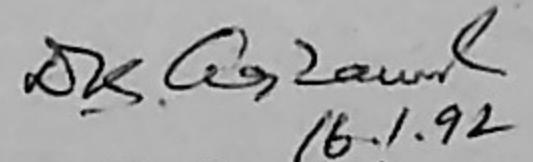
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and providing an opportunity to the charged official to make his submission against the report of the Enquiry Officer. The parties are left to bear their own costs.

  
Member (A)

  
D.K. Agarwal  
16.1.92  
Member (J)

Dated: 16th January, 1992

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