

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD-BENCH, ALLAHABAD.
.....

(7)

Registration No.- O.A. 870/87

Cheddi Lal

Applicant.

Versus

Union of India & Other's..

Respondent's.

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

Hon.Mr. S.N. Prasad-J.M.

(By Hon.Mr. K. Obayya-A.M.)

The applicant was appointed as Majdoor in C.O.D. , Cheeki, Allahabad in year 1979. Charge-Sheet dt.19.5.1980 was served on him for misconduct for allegedly obtaining S.T. certificate from the civil authorities by fraudulent means. Enquiry was held into the matter, thereafter vide order dt. 30-11-83, the disciplinary authority passed order dismissing the applicant from service(Ann. 2). The applicant preferred appeal but the appeal was rejected by the appellate authority vide order 27.4.1984 (Ann. 4).

2. The impugned orders of dismissal and also appellate order up-holding the punishment are assailed inter-alia on grounds that the applicant was not given opportunity to explain his case and that copies of documents relied upon were not supplied to him.

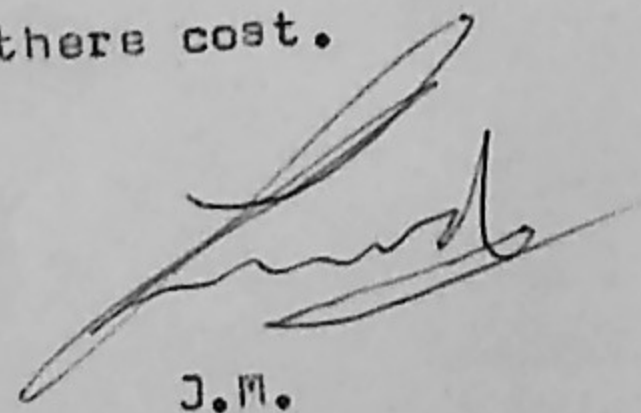
3. We have heard the counsel of the parties. The learned counsel for the applicant Sri G.D. Mukherji pointed out that copy of the enquiry report was not furnished to the applicant before imposition of the penalty, as such the disciplinary proceedings are vitiated since the principles of natural justice are violated. We have given our anxious consideration to this aspect. In Union of India Vs. Mohd. Ramzan Khan (A.I.R. 1991-S.C. Page 471) the Supreme Court held that " Wherever there has been an Inquiry Officer and he has furnished a report to

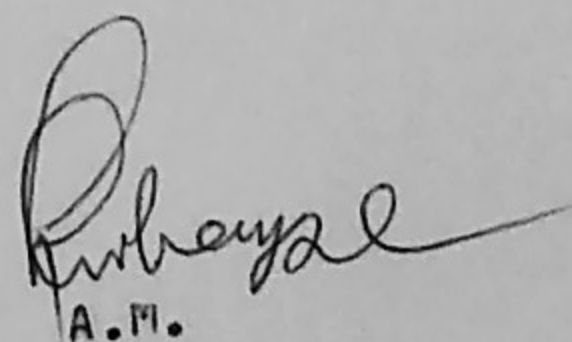
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to the disciplinary authority at the conclusion of the inquiry holding the delinquent guilty of all or any of the charges with proposal for any particular punishment or not, the delinquent is entitled to a copy of such report and will also be entitled to make a representation against it, if he so desires, and non-furnishing of the report would amount to violation of rules of natural justice and make the final order liable to challenge hereafter! The fact that copy of the inquiry report was not given to the applicant before imposition of punishment is not in dispute. The record also bears out this fact.

4. In the back ground of the ~~illegal~~ position set out by Supreme Court, we are of view that the impugned order of termination is liable to be quashed. We ~~are~~ accordingly set aside the order of punishment (Ann. 2) and also order of the appellate authority (Ann. 4) and direct the respondents to reinstate the applicant with immediate effect with such consequential benefits as are permissible under law. We ~~are~~ also make it clear that the respondents may, if they so choose, to proceed with the departmental proceedings against the applicant from the stage of supplying copy of the inquiry report and take such further action as they consider appropriate in accordance with law.

5. The application is allowed as above. Parties to bear there cost.


J.M.


A.M.

Date-29th Nov.91

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Misc. Application No. 592/92

(D.A.No. 870/87)

22.6.92

Hon'ble.Mr. Justice S.K.Dhaone V.C.

The grievance in this Misc. application is that the final order passed by this Tribunal has not been carried out. Prayer is that this Tribunal may direct the respondent to pay the salary and other dues to the applicant. This is not an application for drawing ~~example~~ contempt proceedings against the respondents. This appears to be a misconceived application. It is rejected.

S.K.D.
(V.C.)

(AR)