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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

O.A. No. 1052/87

R.P. Gupta.....

.....Applicant

Versus

Union of India and 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 is a Civilian Class III Employee Grade I of the Military Engineering Service. He has approached this Tribunal against the punishment order passed by the President of India dated 3.10.85 and PTO dated 14.9.87 with a further direction that he will not earn increments of pay during the period of such reduction and that on the expiry of this period of reduction will have effect of postponing his future increments of pay. The subsequent order dated 14.9.87 is a consequential order giving effect to the punishment order. At the relevant point of time the applicant was employed in the office of Garrison Engineer Airforce area as D'man grade I. A charge sheet was served upon the applicant charging him that he failed to maintain devotion of duty in terms of rule 3(ii) Central Civil Services Conduct Rules. According to the applicant, although he was not guilty of any charge but unnecessarily he was charged on certain duties and he was saddled with the duties with which he should not have been saddled and could not have been blamed in respect of the same act of omission and commission with which he has nothing to do so. The applicant refuted the charges against him and in the enquiry proceedings the enquiry officer held him not guilty and found that the charges against the

applicant were not proved. Disagreeing with findings recorded in favour of the applicant the Disciplinary Authority which reached a different conclusion in the instant case but without apprising the applicant of the reasons or disagreement and issuing him show cause notice without giving him an opportunity to file a representation against the same, the punishment order was passed. Although the applicant had certain grievances against the enquiry proceedings which culminated in his favour, he has challenged the proceedings passed by the President awarding the punishment. The main contention on behalf of the applicant is that the disciplinary Authority while disagreeing with the findings of the enquiry officer should have apprised the applicant with reasons of the same and giving him an opportunity to file the representation against the same. In case the applicant should have been given an opportunity to file a representation he would have pointed out the fallacy for the reason so given would have proved that the enquiry officer has rightly recorded a finding and not only rightly recorded the same but has been given a reason of which an order has become completely unassailable by any authority whatsoever.

2. On behalf of the respondents it is stated that the order of Disciplinary Authority has been justified on the ground that rule 15(2) of the C.C.S. Rules provide that the Disciplinary Authority, when disagreeing with the finding of the enquiry authority on any article of charge, recorded its own finding on such charge if the evidence recorded was

was sufficient for the purpose and the Disciplinary Authority has recorded the reasons for the same and accordingly there has been full compliance of Rule 15(2). Rule 15 also provides that the reasons ought to have been recorded but the rule also specifically does not state that the opportunity of hearing is to be given to the delinquent employee but when the reasons ought to have given it implies the same, even otherwise the principle of natural justice enjoins a duty upon the Disciplinary Authority to give an opportunity to the delinquent employee ~~who has been involved~~ in the matter and in case the same is not done, it violates the principle of natural justice. In the case of Narainji Misra Vs. State of Orissa 1969 SLR 657 after taking notice of deliction in the Article 311(2) so far as the show cause notice is concerned, the Supreme Court held that if the Disciplinary Authority disagrees with the findings recorded by the enquiry officer and the reasons has been recorded an opportunity is to be given to the delinquent employee who may get an opportunity to say something against the same. It is after taking into consideration his version, the matter is to be decided and in case that opportunity is denied the same violates the principles of natural and justice/vitiates the enquiry. Precisely the same position arises in this case and accordingly the application deserves to be allowed on this ground and it is not necessary for us to enter into any other ground which has been taken by the applicant for receiving the order. The application is accordingly allowed and the order dated 3.10.85 and P.T.O. dated 14.9.87 are quashed. No punishment order was passed against the applicant or subsisted,

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however, this will not preclude the disciplinary authority for giving an opportunity to the applicant giving the reasons for disagreement or to give the show cause notice to the applicant in this behalf and giving him an opportunity to file a representation against the same. It is after taking into consideration his representation, the Disciplinary Authority will decide the matter and obviously giving reasons by a speaking order in favour of the applicant or against him. With these observations the application is disposed of finally.

3. Whatever decision the respondents will take in this behalf either to go ahead with the proceedings or not but the same shall be done expeditiously within a period of 3 months.

4. There will be no order as to the costs.

A.M.

V.C.

Dated: Allahabad  
29th July, 1992

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