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CENTRAL ADMINISTRATIVE TRIBUNAL, ALIHAHAD BENCH

....

Registration O.A.No.1162 of 1987

Khushi Lal

....

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 who was the employee of Field Gun Factory, Kanpur was chargesheeted. The applicant submitted his reply. An Enquiry Officer was appointed and the Enquiry Officer after holding the enquiry, submitted his report. The Enquiry Officer exonerated the applicant, but the Disciplinary Authority disagreed with the Enquiry Officer's report and prepared a disagreement memorandum. The Disciplinary Authority held the applicant to be guilty and framed the charges against him and imposed a penalty of stoppage of increment for a period of one year with cumulative effect, but at the same time passed an order that the applicant will not be paid the difference between the normal pay and allowances and subsistence and another allowances already paid/due to be paid for the period of suspension from 7.9.85 to 26.1.87 and they gave him an opportunity to represent against the proposed order.

2. It appears that so far as the second part of of the order is concerned because of the fundamental Rule 54 this opportunity was given to the applicant. In response to the said notice the applicant submitted

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his reply. Although he enlarged the scope of his reply and entered into the question of charging ^{and pay} the pay for exoneration but the Disciplinary Authority did not take that part into consideration and maintained his second order, which is evident from the order on record.

3. On behalf of the applicant it was contended that the Disciplinary Authority acted in violation of principles of natural justice in not giving any opportunity to the applicant to have a say in this respect. The findings recorded by the Enquiry Officer is in favour and the points on which there was a difference and thereby he was deprived of the reasonable opportunity to defend himself in violation of principles of natural justice. In this connection reference may be made to the case of Narayan Mishra Vs. State of Orissa (1969 SLR page 657), where in the Supreme Court held that although Article 311 does not provide any such opportunity and after its amendment but if the delinquent official acquitted of some of charges and the punishing authority differed from the findings of Enquiry Officer and held the official guilty of charges from which he was acquitted by the Enquiry Officer, The non giving of notice or opportunity to the delinquent official about the attitude of punishing Authority is in violation of principles of natural justice and for the same punishment cannot be sustained and precisely the same position arises in this case also.

4. Accordingly the punishment order deserves to be set aside and the subsequent order is also set aside. Accordingly this application is allowed and the order passed by the Disciplinary Authority dated 25.1.87 is quashed and the applicant will be deemed to continue

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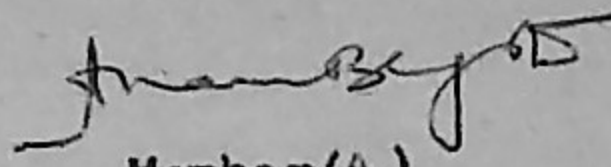
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in service as no punishment order subsists. However, this order will not preclude the Disciplinary Authority from going ahead with the enquiry proceedings after giving an opportunity of hearing to the applicant on the point of disagreement. No order as to costs.


Member (A)


Vice-Chairman.

23rd October, 1991, ALLD.

(sph)