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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

Registration D.A.No. 1284 of 1988

Vindhya Chal Prasad

....

Applicant

vs.

Union of India & Others

Respondents

(S)

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

Hon'ble Mr. A.B. Gorhti, Member (A)

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

The applicant was appointed as Crane Driver (Skilled) in the Field Gun Factory, Kalpi Road, Kanpur. The applicant was suspended vide order dated 11.4.86 on the ground of alleged contemplated disciplinary proceedings. Thereafter he was served a memorandum of charges dated 14.5.1986 issued by the General Manager, Field Gun Factory, Kanpur containing charges against the applicant for gambling inside the factory premises during working hours in the night of 10/11.4.1986 and which conduct was unbecoming of a Government Servant in violation of Sub-Rule 1(iii) of Rule 3 of the CCS (Conduct) Rules, 1964. An Inquiry Officer was appointed and inquiry proceeded. The applicant has given a representation for recalling the suspension order. He was tending apology for whatever mistake was committed by him and made representation that the suspension order may be recalled. The great reliance has been placed on this document by the applicant. The said document does not contain any admission by the applicant but as a matter of fact it was a request for recalling the suspension tending apology for any mistake which has been committed by him or misconduct which has been committed by him. The same would not tantamount to the clear admission of the charge against him, and that is

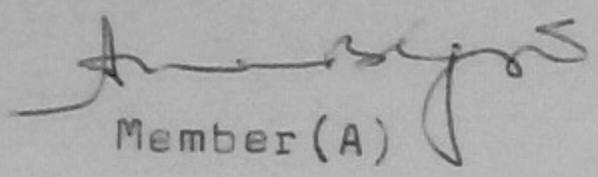
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it appears that no action was taken on it and the inquiry proceeded. After conclusion of the inquiry the Inquiry Officer exonerated the applicant from the charges, but the Disciplinary ^{authority} disagreed with the findings recorded by the Inquiry Officer and without issuing any notice passed the punishment order imposing the penalty ~~of~~ reduction of pay with cumulative effect for a period of two years. The applicant filed an appeal against the same which too was dismissed vide an order dated 22nd June, 1988. The applicant has challenged the penalty order and the inquiry proceedings on variety of grounds. It is not necessary to enter into all the other grounds because these grounds can be seen by the disciplinary authority or the appellate authority and the application deserves to be allowed on the ground that the applicant was not given an opportunity by the Disciplinary Authority to have a say in the matter. In the case of Sri Narainji Mishra Vs. Vs. State of Orissa 1969 SLR page 657 SC it has been held that notwithstanding ~~the deletion of Article 311 of the Constitution of India~~ in the absence of specific provision the principle of natural justice enjoined a duty upon the Disciplinary Authority to give a ~~show~~ cause notice to the delinquent employee and to give an opportunity to have ^{his} say before ~~awarding~~ ^{awarded} the punishment. But here in this case no opportunity whatsoever has been to the applicant by the Disciplinary Authority before disagreeing with the finding of the Inquiry office and awarding punishment. Accordingly this application deserves to be allowed and the punishment order dated 14.9.87 and the Appellate order dated 22.6.88 are quashed. However it will be open for the Disciplinary Authority to go ahead with the inquiry proceedings after giving a show cause notice to the applicant and giving him reasonable opportunity to have a say in the matter.

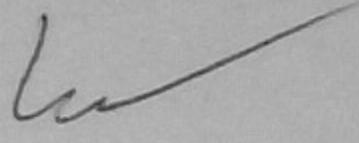
No order as to costs.

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The application is allowed as above. No order as
to costs.



Member (A)



Vice-Chairman.

19th Feb., 1992, Alld.

(sph)