

(4) (A25)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL-ALLAHABAD BENCH-ALLAHABAD.

D.A. No. 1303 of 1988.

Sri Rajdeo Prasad..... Applicant

Versus

Union of India and others..... Opp. Parties.

Hon'ble Mr. Justice U.C. Srivastava - V.C.
Hon'ble Mr. A.B. Gorthi - Member (A).

(By Hon'ble Mr. Justice U.C. Srivastava V.C.)

The applicant entered in the department in Gorakhpur Postal Division and was working as Postal Assistant in L.S.G. Cadre in July, 1984. He attained the age of Superannuation on 30.6.89. ~~On~~ Vide order dated 18.8.1986 he was placed under suspension. Against the said suspension order, the applicant filed an appeal giving the details of the conduct and behaviour of the said B.B. Mani Tripathi ~~who~~ under whose order he was suspended and the manner of the service of the suspension order which has been detailed out by him in the application also. Vide chargesheet dated 22.8.1986 which was received by the applicant on 10.9.1986 the applicant was charge-sheeted for mis-conduct which tantamounted for major penalty charges against him that while working as Counter Clerk regarding the registration Parcel and Stamp selling, sold postage stamps from 9.00 to 13.00 hrs. on 26.6.86 whereas he was required to sell ~~it~~ upto 14.00 hrs and secondly that the letters presented by the senior Cashier N.E.-Rly on 28.7.1986 were refused for booking by him and on 30.6.1986 from the office of Chief Commercial Superintendent N.E. Railway Gorakhpur brought 20 registered letters for booking and that too was refused by him. He also did not carry out the orders of the S.P.M. on 28.7.1986 and showed gross indiscipline while talking on phone with the complaint inspector. The third charge against him was that he left the office on 9.8.86 at 15.45 hrs. and on 28.8.86 at 16.00 hrs. and thereby contravened rule 3 (i) (ii)

of CCS (Conduct) Rules. The applicant submitted ^{his reply} to the chargesheet and Inquiry Officer had made inquiry and thereafter submitted his report to the disciplinary authority. The disciplinary authority punished the applicant by reducing in L.S.G. time scale for two years to the minimum Rs. 1400/- vide memo dated 3/8/87 but copy of the inquiry report was not given to the applicant. The applicant has stated that in the inquiry not only caused prejudice but also in filing an appeal which he ^{had} ~~have~~ to file ^{without} the inquiry officer's report on 1.10.87. The said appeal was not disposed of ^{to} in the knowledge of the applicant. The applicant has challenged the entire action and the variety of ~~law~~ ^{on a} ~~and~~ ^{grounds} according to him the inquiry proceedings is vitiated in as much as the copy of ~~officer's~~ inquiry report was not given to him. One of the challenge of the applicant is that the inquiry officer's report was not given to him to enable him to make representation against the proposed punishment and ^{it violated} exploited the principle of natural justice vitiating the entire inquiry. We have held that in case the ^{report} inquiry officer ^{has} not been given to the delinquent employee ^{to defend himself properly} it ^{violated} exploited the natural justice and it vitiated the inquiry and the punishment order. In this connection we have relied on the case of ^{Mohd} ~~Union of India Versus~~ ^{AIR} Ramjan Khan, 1991 Supreme Court page 471. The objection raised by the learned counsel ~~for~~ that the decision of Ramjan Khan will have only ^{prospective} ~~retrospective~~ effect and the pending cases ^{will be} ~~has been~~ considered ⁱⁿ ~~can also be taken~~ by us today in the case of Mohd. Ishaq Versus Union of India and others in O.A. No. 1207/88 in which we have taken the view that ~~this~~ ^{the} position has been existing from before and in Ramjan Khan ^{case} nothing new was laid down and the pending cases this decision was given earlier cannot be covered from within the meaning of prospective view in the said case of Ramjan Khan and accordingly this application deserved to be allowed and the alleged punishment order dated 18.8.86 and appellate

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order dated 3/8.7.87 stand quashed. However this judgment will not preclude the disciplinary authority from going ahead ^{with} the inquiry proceedings beyond the stage of giving inquiry officer's report to the applicant and giving him reasonable time to file objections against the same. No order as to the costs.

Member (A)

in
Vice Chairman.

Dt: Feb. 19, 1992.

(DPS)