

(6)

CENTRAL ADMINISTRATIVE TRIBUNAL ALIAHABAD BENCH.

O.A. No. 292 of 1988.

S.P. Goel Applicant.
Versus

Union of India & 3 others Respondents.

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

Hon'ble Mr. A.B. Gorthi, A.M.

(By Hon'ble Mr. A.B. Gorthi, A.M.)

The applicant, who is an Upper Division Clerk in the Office of Chief Engineer, Bareilly Zone, was served with a charge-sheet dated 22.7.85. The charge against him was that he committed an act of gross-misconduct by shouting unparliamentary and abusive language against his superior Officer Shri K.C. Jain on 14.9.84. An enquiry was held ~~and~~ at the end of which he was awarded the penalty of withholding of two increments with cumulative effect. The Disciplinary Authority imposed the said punishment without furnishing a copy of the Enquiry Officer's report to the applicant. An appeal submitted by him against the punishment order was rejected by the appellate authority vide order dated 16.9.87. This ~~order~~ ^{punishment} order has been challenged on number of grounds including that the copy of the Enquiry Officer's report was not furnished to the applicant before imposition of penalty.

2. As has been held in the Case of Union of India Vs. Mohd. Ramzan Khan AIR 1991 SC 471, the failure to supply the delinquent employee with the copy of the Enquiry Officer's report would be violative of the principle of natural justice and would vitiate the disciplinary proceedings. Although the Hon'ble Supreme Court in the case of 'S.P. Vishwanathan Vs. Union of India 1992 Supreme Court Cases (I & S) page

155 held that the decision in Ramzan Khan's case would operate with prospective effect only, we have held in the case of Kuber Nath Vs. Regional Director P.S. (O.A.No.54 of 1988 decided on 17.2.92) for the detailed reasons stated therein, that this Tribunal has jurisdiction and power to grant relief in the cases covered by the judgment of the Hon'ble Supreme Court in Ramzan Khan's case, notwithstanding the fact that the impugned order of penalty was imposed on a date prior to 29.11.90.

4. Accordingly, the application is allowed and the impugned order is set aside. The applicant shall be deemed to be continuing in service. However, the respondents are not precluded from proceeding further with the disciplinary enquiry from the stage of giving a copy of the Enquiry Officer's report to the applicant.

5. The application is disposed of in the above terms without any order as to costs.

transcr
MEMBER (A)

lin
VICE CHAIRMAN.

Dated: February 17, 1992

(ug)