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CENTRAL ADMINISTRATIVE TRIBUNAL
ALIAHABAD BENCH

.....
Registration O.A. No. 696 Of 1988
Jagdish Singh Sodhi ... Applicant
versus
Union of India and others... Respondents
Hon' Justice K. Nath, V.C.
Hon' I.K. Rasgotra, A.M.

(By Hon' Justice K. Nath, V.C.)

This application under section 19 of the Administrative Tribunals' Act, 1985, is for quashing an order dated 6-10-84 by which the applicant was removed from service as Senior Clerk, under the Station Master, Shikohabad, Northern Railway, after disciplinary inquiry. There is also a prayer to quash the appellate order dated 10-9-85 and the order dated 25-3-1988 in review confirming the removal order of the disciplinary authority.

2. It is not necessary to go into the merits of this case, because we notice that one of the grounds raised by the applicant was that before the disciplinary authority passed the punishment order, he had not been furnished with the report of Inquiry Officer on the basis of which the disciplinary authority proceeded to pass the impugned order. We have heard Shri Deva Sharma learned counsel for the applicant and Shri A.V. Srivastava learned counsel for the respondents. The point clinched by the latest decision of the Hon'ble Supreme Court in the case of Union of India vs Mohd Ramzan Khan & ors

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reported in Judgment Today 1990 (4) S.C. 456. The Hon'ble Supreme Court after consideration of the previous decisions held that the obligation to furnish a copy of the inquiry report in a disciplinary proceeding before the order is passed by the disciplinary authority, is an obligation arising out of principles of natural justice and remains un-affected by the 42nd Amendment of the Constitution of India.

3. Shri A.V. Srivastava learned counsel for the respondents urged that Hon'ble Supreme Court has written in para 17 of the judgment that the view taken, " was for prospective application and the punishment imposed shall be open to challenge on this ground." The contention is that since the impugned punishment was passed long ago, the decision of the Hon'ble Supreme Court will not apply to it, because, it is expected to apply only prospectively. That is not the correct reading of the observation of Hon'ble Supreme Court as contained in para 17 of the judgment. The observation was made only with regard to certain decisions of the High Court and also of the Supreme Court rendered earlier. In that context the cases decided holding that furnishing of the copy of Inquiry Report was not necessary would remain where they were and in that light the view taken in the judgment under review would be prospective. We may also mention that indeed in that very case Hon'ble Supreme Court set aside the punishment order in disciplinary proceeding with liberty to the disciplinary authority to continue the proceedings from

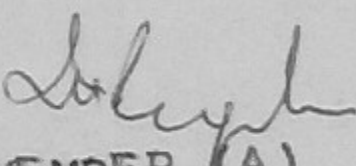
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the stage of supply of inquiry report in cases of dismissal or removal.

4. The application is allowed and the impugned order dated 6-10-84, the appellate order dated 10-9-85 and the revised order dated 25-3-1988 are quashed. It shall be open to the respondents to re-open the proceedings from a stage immediately after making the inquiry report. Since admittedly a copy of the inquiry report has been furnished to the applicant along with removal order, it would not be necessary to supply a copy of the inquiry report afresh. It shall be open to the applicant to make a representation to the disciplinary authority within four weeks from the date of receipt of a copy of this judgment, who shall after due consideration of the material on the record and the representation of the applicant, pass final orders in this case. In the meantime the respondents shall reinstate the applicant and shall pay him the back-wages from the date of removal from service.


MEMBER (A)
6/14/90


VICE CHAIRMAN

(sns)

December 6, 1990.

Allahabad.