

(A4/1)

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH.

O.A. No. 959 of 1988.

Pradeep Kumar Sharma Applicant.

Versus

Union of India & others Respondents.

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

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

(By Hon'ble Mr. Justice U.C. Srivastava, VC

The applicant was appointed on 9.8.61 as an operator in the Ordnance Clothing Factory, Shahjehanpur. He was promoted as Examiner Grade 'C' in February, 1962. He was further promoted as Examiner Grade 'B' on 1.11.62. The applicant was further promoted as Supervisor Grade 'B' and Supervisor Grade 'A' on 19.12.63 and 1.4.71 respectively. The applicant was served with charge-sheet dated 28.2.86 for not depositing the LTC amount and thereafter another charge-sheet was given to the applicant on 29.7.86 regarding late coming to the office. The applicant submitted his reply to the aforesaid charge-sheet and thereafter by order dated 20.9.86 he was suspended. After suspension, third charge-sheet was issued with regard to using abusive language to the Assistant Foreman Shri V.C. Jain. The applicant refuted the allegations levelled in the said charge-sheet by his reply dated 24.12.86. The Enquiry Officer was appointed and for the first charge-sheet dated 28.2.86 punishment of censure was given to the applicant on 29.9.87. Similarly for the second charge-sheet dated 29.7.86, the applicant was given another punishment of censure by order dated 9.12.86. Regarding the third charge-sheet dated 3.11.86, a regular departmental proceeding was conducted against the applicant and in that proceeding, witnesses were examined. The Enquiry Officer

submitted his report holding the applicant guilty of the charges of abusing Sri V.C.Jain and also for attempting to assault him on 19.9.87. It appears that the Disciplinary Authority acting on the basis of the Enquiry Officer's report passed an order compulsorily retiring the applicant from the service. The applicant filed an appeal against the said order before the Additional Director, Ordnance Factory, Kanpur which remained unattended and, therefore, the applicant approached this Tribunal.

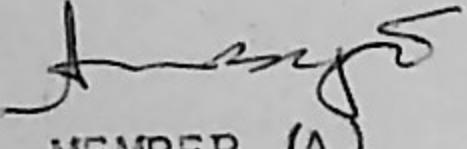
2. The applicant has challenged the entire enquiry proceedings on various grounds. One of the grounds is that the Enquiry Officer's report was not given to the applicant to enable him to file effective representation against the same and thereby he was deprived of reasonable opportunity to defend himself. Therefore, there is violation of principle of natural justice which vitiates the entire enquiry proceeding. This plea was taken by way of amendment although necessary facts in this behalf were already on record.

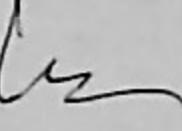
3. As has been held in the case of Union of India Mohd. Ramzan Khan AIR 1991 S.C. 471, the failure to supply the delinquent employee with the copy of the Enquiry Officer's report would be violative of the principle of natural justice and would vitiate the disciplinary proceedings. Although the Hon'ble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


MEMBER (A)


VICE CHAIRMAN.

Dated: February 18, 1992

(ug)