

(S) 12

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

O.A.No.1081 of 1988.

Nirahoo, Mazoor .....Applicant.

Versus

Engineer-in-Chief, Army Head Quarter, New Delhi  
& 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 in this case challenged the legality of the penalty imposed upon him by the Garrison Engineer, Allahabad. The applicant, a Mazdoor in the Office of AGE (MES) Varanasi under GE, Allahabad was placed under suspension on 12.11.83, served with the charge memo on 10.12.83 and on conclusion of an enquiry he was awarded punishment of reduction of six stages in the time scale of pay and on an appeal the said penalty and enquiry were set aside by the Chief Engineer, Lucknow Zone. A fresh enquiry followed which culminated again in the penalty of six stages in the time scale of pay from Rs.912/- to Rs.834/. for two years. The said punishment has been challenged on several grounds including that the copy of enquiry report was not furnished before imposition of the penalty.

2. As has been held in the case of 'Union of India Vs. 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

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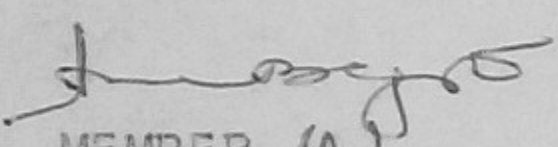


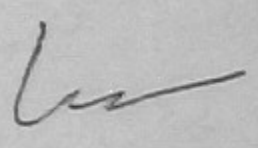
(B) A2/2

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.

3. Accordingly, the application is allowed and the impugned order is set aside. <sup>2</sup> The applicant shall ~~be deemed to be continuing in service as Mazdoor~~ <sup>2</sup> ~~in the Office of AGE (MES) Varanasi.~~ 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.

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

  
MEMBER (A)

  
VICE CHAIRMAN

Dated: February 18, 1992

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