

(6)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

Registration C.A. No. 1114 of 1988

Aftab Ahmad Khan ... ... ... Applicant.

Versus

Union of India and others ... ... Respondents.

Hon. Mr. A.B. Gorthi, Member (A)

Hon. Mr. S.N. Prasad, Member (J)

( By Hon. Mr. S.N. Prasad, Member (J) )

The applicant has approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 with a prayer that the impugned order or dismissal dated 19.6.1987 passed by the disciplinary authority/Assistant Engineer, North Eastern Railway, Kasganj be set aside and a direction be issued to the respondents to pay his entire arrears of salary and other emoluments etc.

2. .... Briefly, stated the facts of the case inter alia; are that the applicant was initially appointed as 'Casual Labourer' in North Eastern Railway, Mainpuri and he worked in the said capacity upto 5th September, 1978 and in different spells he worked upto 2.2.1980 and later on he worked as 'Time Scale Khalasi'; and the applicant also worked as Casual Labourer for several days in the year 1983 and for several months in the year 1984. Later on, the applicant was duly granted time scale from 31.12.1984. The applicant learnt that some person had made false complaint <sup>against</sup> him regarding his alleged fraudulent acts in procuring appointment and in regard to that, the applicant was charge-sheeted and disciplinary proceedings were proceeded with <sup>against</sup> him in regard to that complaint and the enquiry officer after completing the enquiry submitted his report on 13.5.1987. It is further stated that the applicant was

Contd. ... 2/-

A2  
JH  
(X)

not furnished with the copy of the enquiry officer's report and as such, the impugned penalty which was imposed on him of dismissal from service results into the miscarriage of justice in as much as no reasonable opportunity was afforded to him to defend himself and as such the impugned order be quashed.

3. The respondents in their counter affidavit have refuted the allegations of the applicant. However, from the perusal of para- 10 and para-17 of the counter affidavit, it is clearly borne out that the fact regarding non-furnishing of the copy of enquiry officer's report is not in dispute and from the scrutiny of the material on record, it is established that no copy of enquiry officer's report was furnished to the applicant.

4. We have heard the learned counsel of both the parties and have thoroughly gone through the records of the case.

5. From the scrutiny of the material record, now the point which lies for determination hinges <sup>on</sup> around the fact as to whether non-furnishing of the copy of the enquiry officer's report to the applicant will tantamount to the violation of the principles of natural justice. This point has been elaborately enunciated in the judgment reported in A.I.R.1991(SC) page 471, Union of India Vs. Mohd.

Ramzan Khan, wherein it has been clearly laid down that non-furnishing of the copy of the enquiry officer's report to the delinquent employee would be violative of the principles of natural justice and in this view of the matter, since the copy of the enquiry officer's report was not furnished to the delinquent employee, we find that there has been violation of the principles of natural justice

*Ed*

Contd ... 3p/-

and as such, the impugned order deserves to be quashed.

6. Consequently, we quash the impugned order dated 19.6.1987 and direct the respondents to reinstate the applicant in service with all consequential benefits. It will be open for the respondents to complete the disciplinary proceedings from the stage of the furnishing of the copy of the enquiry officer's report to the applicant. The application is disposed of with the above terms. Parties to bear their own costs.

Member (J)

Member (A)

Dated 7.2.1992

(n.u.)