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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

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Registration O.A. No. 60 of 1989

V.M. Bhattacharya Applicant.

Versus

Area Manager Northern Railway Kanpur
Area and others Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon'ble Mr. A.B. Gorthi, Member (A)

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicant who was Booking Clerk at Railway Station at Kanpur Central was served a memorandum of charges dated 13.9.1985 alleging the charge that by the above act applicant failed to maintain absolute integrity, displayed lack of devotion to duty and acted in a manner unbecoming of Railway Servant, thereby contravened Rule 3-1(i), (ii) and (iii) of Railway Service Conduct Rule, 1966. A team of Vigilance Inspectors, with a person called Usmani came to the counter of the applicant and Vigilance Inspector directed to the applicant to pay Rs. 40/- to the so called person Usmani and also to write a confessional note that the said amount was charged by the applicant in excess of correct fare against the 4 tickets i.e. Rs. 10/- in each ticket. It appears that latter on the applicant paid back Rs. 40/- to Usmani. The applicant submitted his reply and the enquiry officer was appointed and enquiry proceeded. The enquiry officer recommended the punishment to the applicant and the disciplinary authority removed him from service. The applicant had filed a departmental appeal which is dismissed and thereafter he approached to the Tribunal. The applicant has challenged the entire enquiry proceedings and has pleaded that there was no evidence against the applicant to hold him guilty, yet

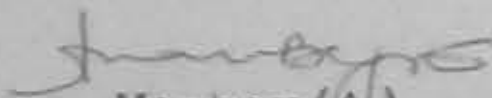
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he has been held guilty and has been given punishment of removal from service. One of the plea raised by the applicant is that disciplinary authority has not given him the copy of the enquiry officer's report and due to that very effect, he could not file the representation against the proposed punishment, and thereby the principles of natural justice is violated. In this connection, a reference has been made in the case of Union of India Vs. Mohd. Ramzan Khan, AIR, 1991, SC, page 4713 in which it has been held that wherever there has been an Inquiry Officer and he has furnished a report to the disciplinary authority at the conclusion of the inquiry holding the delinquent guilty of all or any of the charges with proposal for any particular punishment or not, the delinquent is entitled to a copy of such report and will also be entitled to make a representation against it, if he so desires and non-furnishing of the report would amount to violation of rules of nature justice and make the final order liable to challenge hereafter.

2. Accordingly, this application deserves to be allowed and the order of removal dated 2.11.1987 and the appellate order dated 11.7.1988 is quashed and the applicant is deemed to be in continuous service. However, this judgment will not preclude the respondents in going ahead with the enquiry proceedings beyond the stage of giving the enquiry officer's report to file an effective representations against the same. The application is disposed of with the above terms. Parties to bear their own costs.


Member (A)


Vice-Chairman

Dated: 6.12.1991

(n.u.)