

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD

Original Application No: 1163 of 1993

R.P.Mishra Applicant.

Versus

Union of India & Ors. Respondents.

Hon'ble Mr. S.Das Gupta, Member-A

Hon'ble Mr. T.L.Verma, Member-J

(By Hon'ble Mr. S.Das Gupta, A.M.)

This Original Application has been filed under Section 19 of the Administrative Tribunal's Act, 1985 seeking the relief of quashing the impugned order dated 30.6./3.7.1993 imposing penalty of reduction to lower rank and that the period of suspension of the applicant from 20.3.91 to 15.5.91 be treated as the period spent on duty.

2. The brief facts of the case are that the applicant who was initially appointed as a Lineman under the Administrative Control of D.R.M. Allahabad, rose to the rank of Highly Skilled Lineman w.e.f. 1.1.1984 through successive promotions. While working as such, he was placed under suspension on 20.3.1990 pending disciplinary action and thereafter, he was served with a chargememo of major penalty. Thereafter, an inquiry was held ~~with~~ ^{with} charges against him and the disciplinary authority imposed penalty of reduction to the lower post of Senior Lineman vide impugned order dated 30.6./3.7.1993 (Annexure-A to compilation No. I).

::2::

3. The order of the disciplinary authority, imposing penalty on him, has been assailed by the applicant on several grounds; whether

1. He was denied reasonable opportunity to defend himself as certain documents required by him for his defence, were not supplied to him.
2. The preliminary inquiry held in this case, found one Rajendra Prasad also responsible for the accident which was the cause of action for the disciplinary action, but he was not proceeded against. The disciplinary action against the applicant alone is thus, intended to be discriminatory.
3. The charge itself was misconceived as he was acting under supervision and was not supervising other workmen.
4. The applicant was not supplied with a copy of the inquiry report prior to imposition of the penalty.

4. In the written statement respondents have sought to repel the contentions of the applicant. They have averred that the petitioner was held responsible for failing to discharge his responsibility being incharge of the party at the work site and carried out work in dangerous zone without taking adequate precautions. It has already been contended that the petitioner failed to provide adequate number of discharge rod before starting the work on Over Head Equipment and also failed to ascertain the boundary of power block from his senior Supervisor. The petitioner was issued competency certificate to

w/c.

::3::

act independently at the site and due to his negligence, his helper Khalasi received electrical shock. He was held responsible in the Fact Finding Inquiry and therefore, the major penalty charge memo was served on him. They further averred that Rajendra Prasad was also put under suspension along with the petitioner and both served with major penalty charge memo; suitable penalty was imposed on Rajendra Prasad also on the basis of the findings of the Inquiry Officer. As regards non-supply of documents, the respondents have averred, the petitioner was asked to take extract/note of documents required by him but he failed to do so even after being reminded in writing. As regards non-supply of inquiry report, it has been stated that the copy of the report was supplied on 12.8.1993.

5. We have heard the arguments of the counsel for both the parties and carefully gone through the pleadings.

6. The various pleas taken by the applicant in assailing the order of authority do not have any force in view of the averments made by the respondents and the documents enclosed to the written statement in support of such averments. However, there is no doubt that copy of the inquiry report was not supplied to the applicant before imposition of penalty. The penalty was imposed vide order dated 30.6./3.7.1993 whereas copy of the order was admittedly supplied only on 12.8.1993. The question, therefore, arises, as to whether non-supply of the inquiry before

w/c

::4::

imposition of penalty, would vitiate the disciplinary proceedings and this was the question, we seriously addressed ourself to.

7. In the leading case of Union of India Vs. Mohd. Ramzan Khan, the Supreme Court clearly ruled as follows;

"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 natural justice and make the final order liable to challenge hereafter."

In subsequent decisions of the Supreme Court, it was clarified that the law laid down in Ramzan Khan's case shall have prospective application. Ramzan Khan's case was decided on 20.11.1990. The penalty having been imposed on the applicant in this case on 30.6./3.7.1993, the ^{law} ~~Rule~~ laid down in Ramzan Khan's case is squarely applicable to this case.

8. In view of the above, the application partly succeeds and the impugned order of penalty is set aside. The disciplinary authority is however, at liberty to initiate the proceedings against the applicant *denovo* from the stage of supply of the

WL.

10

PR
6

::5::

inquiry report. As regards the period of suspension, treating the period as on duty or otherwise, shall be decided by the competent authority in accordance with law.

9. There will be no order as to costs.

J. Bhama
Member-J

W. R.
Member-A

Allahabad Dated..... 03. August, 1994

/jw/