

(5)

CENTRAL ADMINISTRATIVE TRIBUNAL;
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 245 OF 1989

Date of decision: April 22, 1992.

Patitapaban Dash

.. Petitioner

Versus

Union of India and others

.. Opp. Parties

For the Petitioner

.. M/s Deepak Misra, R.N. Naik,
A. Deo, B.S. Tripathy,
Advocates.

For the Opp. Parties

.. Mr. A.K. Misra, Standing Counsel
(Central)

....

CORAM:

THE HONOURABLE MR. K.P. ACHARYA, VICE CHAIRMAN

AND

THE HONOURABLE MR. C.S. PANDEY, MEMBER (ADMINISTRATIVE)

..

1. Whether reporters of local papers may be allowed to see the judgment? Yes.
2. To be referred to the reporters or not? No.
3. Whether Their Lordships wish to see the fair copy of the judgment? Yes.

..

11211

JUDGMENT

K.P.ACHARYA, V.C. In this application under section 19 of the Administrative Tribunals Act, 1985, the Petitioner prays to quash the order contained in Annexures 2 and 3 imposing punishment to the extent of removal of the Petitioner from service vide Annexure 2 dated 22nd June, 1988 and confirmed in appeal vide Annexure 3 dated 17th February, 1989.

2. We have heard Mr. R.N.Naik learned Counsel appearing for the Petitioner and Mr. Aswini Kumar Misra appearing for the Opposite Parties.

3. No counter has been filed. Though Mr. Aswini Kumar Misra prayed for an adjournment, we refused to grant the same because of the patent illegality committed by the authorities which would be discussed hereunder.

4. From Annexure 2, it is apparently clear that copy of the enquiry report was enclosed to the order of punishment. This has been disapproved by the Hon'ble Supreme Court in the case of Union of India Vs. Mohd. Ramzan Khan reported in AIR 1991 SC 471. At paragraph 18 of the Judgment, the Hon'ble Chief Justice of India Mr. R.N.Mishra speaking for the court was pleased to observe as follows:

" We make it clear that wherever there has been an Inquiry Officer and he has furnished a report to the

//3//

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".

5. Applying the principles laid down by Their Lordships of the Hon'ble Supreme Court to the facts of the present case, we are of opinion that there has been a failure in compliance of the principle of natural justice. Hence the impugned order of punishment in Annexure 2 and the appellate order contained in Annexure 3 are hereby quashed and the case is remanded to the Sub-Divisional Inspector (Postal), Cuttack North Sub-Division, with a direction that as an abundant precautionary measure he should deliver a copy of the ^{inquiry} report to the petitioner within 15 days from the date of receipt of a copy of the judgment and within 15 days therefrom, the Petitioner would be at liberty to file representation to have his say in the matter against the findings of the enquiry officer and within 30 days therefrom the disciplinary authority will pass final orders. Since we have quashed the impugned order of punishment on a technical ground the petitioner shall not be entitled to backwages and be treated as having remained under put off duty.

6. Thus, the application is accordingly disposed of leaving the parties to bear their own costs.

K. Mohanty
MEMBER (ADMINISTRATIVE)



K. Mohanty
22.4.92
VICE CHAIRMAN

Central Administrative Tribunal
Cuttack Bench/K. Mohanty/22.4.92