

Date of Decision 6.2.92

P.Rama Rao ... Applicant

Versus

Union of India & Others Respondents

For the applicant

M/s.C.V.Murty,
CMK Murty &
S.Kr.Rath,
Advocates

For the respondents

Mr.L.Mohapatra,
Standing Counsel
(Rly.Administration)

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C O R A M

HON'BLE MR. K. P. ACHARYA, VICE-CHAIRMAN

AND

HON'BLE MR. J. C. ROY, MEMBER (ADMINISTRATIVE)

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

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 482 of 1989

Date of Decision 06-02-1992

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...

JUDGMENT

K.P. ACHARYA, VICE-CHAIRMAN, In this application under Section 19

of the Administrative Tribunals Act, 1985, the petitioner
~~prays/~~^{that} the order of penalty imposed on the petitioner
resulting from a disciplinary proceeding contained in
Annexure-6 reducing the pay to the initial stage at
the time scale of Rs. 1350/- may be quashed.

2. Shortly stated the case of the petitioner is
that while he was functioning as a Loco-Driver Grade-B
under the Senior Divisional Mechanical Engineer,

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South Eastern Railway, Waltiar, a charge sheet^{was}/delivered to him containing four articles of charges - substantum of which is negligence and deriliction of duty. After a regular enquiry the petitioner was found to be guilty of the charges and vide order dated 20th November, 1987 contained in Annexure-6, the disciplinary authority found the petitioner guilty of the charge and ordered reduction in the pay scale to Rs.1350/- for a period of three years. The appeal ~~review~~^{by} petition did not yield any fruitful result. Hence this application has been filed with the aforesaid prayer.

3. In their counter the opposite parties maintained that the case being ~~one~~^{of full} proof evidence and principles of natural justice having been strictly ~~applied~~^{complied} in all respects, the order of punishment should not be unsettled/rather it should be sustained. The case being devoid of merit is liable to be dismissed.

4. We have heard Mr. Murty, learned counsel for the petitioner and Mr. L. Mohapatra, learned Standing Counsel for the Railway Administration at a considerable length. Mr. Murty ~~asserted~~^{assailed} the order of punishment on several grounds including questions of fact and violation of principles of natural justice and therefore he contended that the order of punishment should be quashed. Mr. Mohapatra, learned Standing Counsel has made a vehement attempt to repudiate the contentions of Mr. Murty, but we do not feel inclined to express any opinion on the contentions advanced by counsel for both sides on the above mentioned questions of fact and law, because

of the order we propose~~d~~ to pass in this case. From the context of Annexure-6 it is found that the disciplinary authority has stated as follows :

" After objectively considering the evidence of record, the report of the inquiry officer (copy enclosed) and the defence offered by you for the reasons recorded herein. "


In the last portion of the order it is stated as follows:

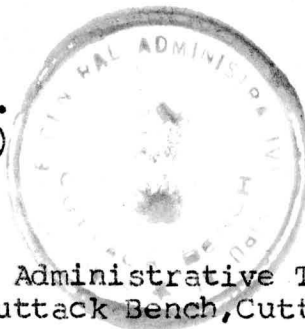
" Encl: one copy of enquiry Sr.Divisional Mechanical Engineer, Waltiar officer's report".

From the above facts it is abundantly clear that the copy of the inquiry report has been sent to the delinquent officer along with the order of punishment. It can be safely presumed that the copy of the inquiry report was not furnished to the delinquent officer before the order of punishment was passed by the disciplinary authority. In this connection judgment of the Hon'ble Supreme Court reported in AIR 1991 SC 471 (Union of India and others vrs. Mohd. Romzan Khan) needs to be referred to. Hon'ble the Chief Justice of India 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 disciplinary authority at the conclusion of the enquiry holding the delinquent guilty of all or any of the charges with a 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. As already observed, copy of the inquiry report not having been furnished to the delinquent officer giving him an opportunity to file a representation and attacking the finding of the inquiry officer, principles of natural justice have been violated and the law laid down by Their Lordships of the Supreme Court in the above mentioned judgment applies in full force to the present case. Therefore the order of punishment passed by the disciplinary authority and the order passed by the appellate authority are hereby quashed and the case is remanded to the disciplinary authority to furnish a copy of the inquiry report to the petitioner giving him some time to file his representation and in case the petitioner desires for a personal hearing, such opportunity should be given to the petitioner and thereafter the disciplinary authority may pass necessary orders according to law.
6. Thus the application is accordingly disposed of leaving the parties to bear their own costs.


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MEMBER (ADMINISTRATIVE)




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VICE-CHAIRMAN

Central Administrative Tribunal
Cuttack Bench, Cuttack
BKSahoo/