

(11)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 518 of 1989

Date of Decision: 22.9.92

Krupasindhu Mantri

Applicant

Versus

Union of India & Others

Respondents

For the applicant

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

For the respondents

Mr. A.K. Mishra,
Standing Counsel
(Central Government)

For the Intervenor

Mr. D.P. Dhalasamant,
Advocate

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C O R A M

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

AND

THE HONOURABLE MISS USHA SAVARA, MEMBER (ADMN)

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1. Whether the reporters of local newspapers may be allowed to see the judgment ?
2. To be referred to reporters or not ? *ND*
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes

12

J U D G M E N T

K.P.ACHARYA, V.C., In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant, Krupasindhu Mantri challenges the order passed by the competent authority removing him from service.

2. Shortly stated, the case of the applicant is that while he was working as an Extra-Departmental Delivery Agent in Bilipada Branch Post Office a disciplinary proceeding was initiated against him on an allegation that he did not attend to his duties from 17.6.1986 to 26.6.1986 and remained absent unauthorisedly without providing a substitute. The second article of charge is that the applicant provided a substitute only on 27.6.1986 and remained on leave from 27.6.1986 to 30.11.1986 at a stretch unauthorisedly even beyond 30.11.1986 for a period of more than 180 days. A full fledged enquiry was held and the enquiring officer found that the charges had been established and accordingly submitted his findings to the disciplinary authority who in his turn ordered removal of the applicant from service. Appeal preferred by the applicant did not yield any fruitful result.

3. In their counter, the respondents maintained that the evidence on record to substantiate the allegations being overwhelming in nature and the case being one of full proof evidence and furthermore, principles of natural justice having been strictly observed, the order of punishment should not be unsettled - rather it should be sustained.

4. We have heard Mr. R. N. Naik, learned counsel for the

13

applicant and Mr. A.K. Misra, learned Senior Standing Counsel (CAT) for the respondents.

5. From the order passed by the disciplinary authority it is found that the copy of the enquiry report was enclosed to the order of punishment. Hence, it is presumed that copy of the enquiry report was not supplied to the applicant before the impugned order of punishment was passed which clearly violates the principles laid down by Their Lordships of the Supreme Court in the case of Union of India and others vrs. Mohd. Ramzan Khan reported in AIR 1991 SC 471. Their Lordships in the aforesaid case held that before an order of punishment is passed against a delinquent officer copy of the enquiry report must be furnished to the delinquent officer who should have an opportunity of having his say in the matter and if he demands a personal hearing, it should be granted in his favour and thereafter the disciplinary authority should pass orders according to law failing which principles of natural justice are violated. In the present case, at the cost of repetition it may be stated that the principles of natural justice have been violated because copy of the enquiry report was ~~not~~ furnished to the applicant along with the order of punishment. Hence, in view of the judgment of the Hon'ble Supreme Court in the case of Union of India and others vrs. Mohd. Ramzan Khan (AIR 1991 SC 471) the order of punishment is not sustainable. We would, therefore, quash the order of punishment passed by the disciplinary authority and the order of the appellate authority confirming the punishment and we would remand this case to the disciplinary authority.

14

to give notice to the applicant to file his representation on the findings of enquiry report and in case, the applicant demands a personal hearing, he should be given an opportunity of being heard and after hearing the applicant orders be passed according to law by the disciplinary authority. We hope and trust the disciplinary authority will finalise this matter within a period of 60 days from the date of receipt of a copy of this judgment. The applicant shall not be entitled to reinstatement or back wages. His entitlement in this regard would be decided according to the result of the disciplinary proceeding.

6. Other arguments advanced by Mr. R.N. Naik regarding the merits of the case are kept open to be taken up at the appropriate stage, if occasion arises.

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

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M. Kumar
 MEMBER (ADMINISTRATIVE)

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[Signature]
 22.9.92
 VICE-CHAIRMAN

Central Administrative Tribunal,
 Cuttack Bench, Cuttack.
 22.9.1992/Saranga

