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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

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ORIGINAL APPLICATION No. 148/1990

Date of Decision: March 12, 1991.

Bhagirathi Patra Applicant

Versus

Union of India and Others... Respondents

For the Applicant: M/s.R.N.Sahu,
A. Samal,
D.P.Sahu and
R.K. Nayak, Advocates

For the Respondents:M/s. B. Pal and
O.N. Ghosh for R-3

C O R A M:

The Hon'ble Shri K.J. Raman, Member(A)
and

The Hon'ble Shri N. Sengupta, Member(J)

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

J U D G M E N T

K.J. RAMAN, MEMBER (A). The applicant in this case, who was working as a Ward Keeper in the South Eastern Railway, has been removed from service purportedly under the impugned order dated 8-9-1989/ (Annexure I, page 15) passed by the Chief Engineer (Con.), in a disciplinary proceeding. The appeal filed by him against the said impugned order

100

of removal had been turned down by the impugned appellate order dated 28-2-1990 (Annexure X, page 38). In this application filed under Section 19 of the Administrative Tribunals' Act, 1985, the applicant has sought for his reinstatement in service with all consequential benefits.

3. A reply has been filed by the respondents.

4. The case has been heard today.

5. The learned counsel for the applicant advanced several grounds in support of the relief prayed for.

Among the grounds advanced by the applicant is one that the officer who passed the impugned order of removal is not competent to do so. During the hearing, the learned counsel for the applicant also submitted that, before passing the impugned order of removal (Annexure-I), the applicant had not been given a copy of the Enquiry Report and was thus not given any opportunity to make his submission in regard to that report.

6. The learned counsel for the respondents referred to the reply filed in this connection.

7. The impugned order of removal read as follows:-

"To

Sri B. Patra,
Ward Keeper,
under Dy. CE(C)/RGDA

Thro' Dy. CE(C)/RGDA

After considering the report of the Inquiry Officer (copy enclosed), the evidence available on

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19
record and the defence offered by you, I have come to the conclusion that you are guilty of the charge of loss of 3,370 bags/163.65 M.Ts. of cement. I have, therefore, decided that you are not a fit person to be retained in service and you shall be removed from railway service as a disciplinary measure with immediate effect.

The receipt of this notice may please be acknowledged.

Sd/-
(Chief Engineer (Con))
DISCIPLINARY AUTHORITY

8. It is obvious from a reading of the impugned order that it is rather vague in that it refers to itself as a notice also. An order of imposing a penalty like removal ought to be clearly worded and supported by due reference to the statutory rules. The Disciplinary Authority has also got to be categorical whether he agrees with the Inquiry Officer's report or not. According to a recent decision of the Apex Court, it is also necessary for the disciplinary authority to indicate, at least briefly, the reasons behind such decision (S.N. Mukherjee Vs. Union of India, 1990(5) SLR - 8).

9. We also think that the contention of the learned counsel for the applicant, regarding the non-supply of the copy of the Inquiry Report to the applicant before passing the order of penalty, is also valid. It is now well settled that the disciplinary authority must comply with the principles of natural justice embedded in Article 311(2) of the Constitution, by giving an opportunity to the Government servant to make his representation in regard to the Inquiry Report submitted by the Inquiry Officer. In this connection, we may refer to the Full Bench decision in the case of Prem Nath K. Sharma Vs. Union of India,

1988 (6) ATC 904.


10. We have, therefore, to conclude that the impugned order dated 8-9-1989 (Annexure-I) removing the applicant from service has been issued in contravention of the principles of natural justice, as referred to above, and it is, therefore, vitiated and unsustainable.

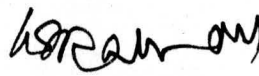
11. In the view we are taking as above, it is not necessary to traverse through the other grounds urged by the learned counsel for the applicant.

12. In the result, we allow the application accordingly, and set aside the impugned order dated 8-9-1989 (Annexure-I) removing the applicant from ^{consequential} service, and also the order dated 26-9-1989 (Annexure-II) asking for the vacation of the quarters by the applicant, and we also quash the impugned appellate order dated 28-2-1990 (Annexure X, page 38). The respondents are, however, at liberty to continue the disciplinary proceeding after supplying a copy of the Inquiry Report to the applicant and giving him an opportunity to make representation in ^{respect} ~~the~~ ^{light} of the Inquiry Officer's Report, to the Disciplinary Authority. If the respondents choose to continue the proceeding as above, the manner of treatment of the period from the date of removal till the date of conclusion of the proceeding shall depend on the outcome of the disciplinary proceeding. If the respondents choose to continue the disciplinary proceeding as above, they shall complete the said proceeding and pass the final order under the rules, within a period of three months from the date of receipt of a copy of this order by the

6/20

respondents. There will be no order as to costs.


(N. SENGUPTA) 12/2/91
Member (Judicial)


(K.J. RAMAN)
Administrative Member

Central Administrative Tribunal,
Cuttack Bench, Cuttack,
March 12, 1991.

