

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

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ORIGINAL APPLICATION No. 235/1991

DATE OF DECISION: 14-3-1991

Banamali Jena .. Applicant

Versus

Union of India and Others.. Respondents

For the Applicant: .. M/s. Devananda Misra,  
Deepak Misra,  
Rabi N. Naik,  
Anil Deo and  
B.S. Tripathy

For the Respondents: .. Mr. A.K. Misra  
Sr. Standing Counsel (CAT)

C O R A M:

THE HON'BLE SHRI K.J. RAMAN, MEMBER (A)

and

THE HON'BLE SHRI N. SENGUP TA, MEMBER (J)

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

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JUDGMENT

K.J. RAMAN, MEMBER (A). In this application under Section 19 of the Administrative Tribunals' Act, 1985, the applicant, who was working as an Extra- Departmental Branch Post Master (EDBPM) at Radhanga, has sought for the quashing of the impugned order dated 3-7-1985 (Annexure-1) removing the applicant from service has in a disciplinary proceeding. He/also sought for the

quashing of the impugned appellate order thereof dated 28-1-1986 (Annexure-2).

2. A reply has been filed by the respondents contesting the claim of the applicant.

3. The case has been heard. We have very carefully considered the submissions made by the learned counsel for both the sides during the hearing.

4. The learned counsel for the applicant urged only one ground before us. That is to the effect that the impugned order of removal was vitiated due to non-supply of a copy of the Inquiry Report to the applicant before the impugned order of removal of the applicant from service was passed, (vide paras 4(c) and 5(i) of the Application.

5. The learned counsel for the respondents admitted that, indeed, a copy of the Inquiry Report was not given to the applicant before the impugned order of removal was passed. He submitted that the departmental instructions to furnish a copy of the inquiry report at that stage of a disciplinary proceeding, were passed only in 1989, long after the impugned order was passed in this case.

6. It is by now well established that a copy of the Inquiry Report must be supplied to the charged officer before an order imposing a penalty is passed against such officer in a disciplinary proceeding, in accordance with the principles of natural justice ingrained in Article 311 (2) of the Constitution (Full Bench decision in Prem Nath K. Sharma V. Union of India, 1988 (6)ATC 904).

Failure to observe the principles of natural justice goes to the very root of the matter and absence of departmental instructions does not obviate the necessity to follow the principles of natural justice.

7. Accordingly, we have to uphold the contention of the learned counsel for the applicant that the impugned order of removal in this case is vitiated and unsustainable due to infringement of the principles of natural justice, as stated above. We do not think it necessary to go into other issues raised in the application.

7. Consequently, we quash the impugned order dated 3-7-1985 (Annexure 1) removing the applicant from service. We also quash the impugned appellate order dated 28-1-1986 (Annexure-2). Accordingly, we allow the application. This does not, however, prevent the respondents from continuing the proceeding against the applicant from the stage of supply of a copy of the Inquiry Report to the applicant and giving him an opportunity to make his submission with reference to the Inquiry Report. If the respondents choose to continue the proceeding as above, they shall complete the proceeding and issue the final order within a period of three months from the date of receipt of a copy of this order. There will be no order as to costs.

*N. Sengupta*  
(N. SENGUPTA)  
Member (J)

*K. J. Raman*  
(K. J. RAMAN)  
MEMBER (A)

