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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 286 of 1990

Date of decision 28.4.1992

Narendra Kumar Behera Applicant

Versus

Union of India & others Respondents

For the applicant M/s. Devanand Mishra,
Deepak Mishra,
R. N. Naik, A. Deo
B. S. Tripathy,
P. Panda, Advocates

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

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C O R A M

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

AND

HON'BLE MR. C. S. PANDEY, 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 ?
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes

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JUDGMENT

MR. K. P. ACHARYA, VICE-CHAIRMAN, In this application under Section 19 of the Administrative Tribunals Act, 1985, the petitioner challenges the order of punishment against him, removing him from service contained in Annexure-3 dated 20.1.1989.

2. Shortly stated the case of the petitioner is that while he was serving as Branch Post Master in Godisahi Branch Post Office a set ^{of} ~~up~~ charges ^{were} ~~was~~ delivered and after fullfledged inquiry the petitioner was ordered to ~~be~~ removed from service. Appeal preferred by him did not yield any fruitful result. Hence this application has been filed with the aforesaid prayer.

3. In their counter the opposite parties maintain that the case ~~is~~ being devoid of merit is liable to be dismissed.

4. We have heard Mr. R. N. Naik, learned counsel for the petitioner and Mr. A. K. Mishra, learned Standing Counsel for the Central Government in full. From the inquiry report contained in Annexure-3, we find that a copy of the inquiry report was annexed to the order of punishment which presupposes that before ordering punishment ^{of} to the petitioner, copy of the inquiry report was not given to him for which the petitioner has been seriously prejudiced, owing to non-compliance of the principles of natural justice.

5. At paragraph 18 of the judgment passed in the case of Union of India Vs. Mohd. Ramzan Khan reported in AIR 1991 Supreme Court 471 ~~there~~ my Lord the ^{then} Chief Justice of India Mr. R. N. Mishra 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 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".

6. The principles laid down by Their Lordships in the above mentioned judgment applied in full force to the facts of the present case. Hence ~~we~~ would would quash the order of punishment issued by the ~~appellate~~ ^{disciplinary} authority contained in Annexure-3 and the case is being remanded with a direction that an abundant precautionary measure the petitioner should be served with a copy of the inquiry report within 15 days from the date of receipt of a copy of this judgment and within 15 days therefrom the petitioner will be at liberty to file a representation and in case he demands a personal hearing, the same should be granted in his favour and within 30 days from the closure of the proceeding the final order should be passed by the disciplinary authority.

7. Since we have quashed order of punishment on a technical ground the petitioner shall not be entitled to any back wages or ~~to~~ reinstatement. He shall remain on put off duty. Thus the application is accordingly disposed of leaving the parties to bear their own costs.

Chowdhury
28/4/92
MEMBER (ADMINISTRATIVE)

28/4/92
VICE-CHAIRMAN

Central Administrative Tribunal
Cuttack Bench
dated the 28th April 1992/San

