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Central Administrative Tribunal
Cuttack Bench, Cuttack

Original Application No. 288 of 1990

Date of decision July 8, 1992

R.J.Rao

Applicant

Versus

Union of India and others Respondents

For the Applicant

: M/s Devanand Misra, Deepak Misra,
R.N.Naik, A.Deo, B.S.Tripathy,
P.P.Panda, Advocates.

For the Respondents

: Mr. D.N.Misra, St.Counsel(Central)

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CORAM:

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

AND

THE HONOURABLE MR. M.Y.PRIOLKAR, MEMBER (ADMINISTRATIVE)

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1. Whether reporters of local papers may be allowed to see the Judgment? Yes.
2. To be referred to the reporters or not?
3. Whether Their Lordships wishto see the fair copy of the judgment? Yes.

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JUDGMENT

K.P.ACHARYA, V.C. In this application under section 19 of the Administrative Tribunals Act, 1985, the Petitioner prays to quash the order of punishment imposed by the disciplinary authority and that of the appellate authority.

2. Shortly stated the case of the Petitioner is that while he was functioning as Diesel Driver Assistant in UP DWAT Special No.II goods train, owing to negligence of duty he dashed against another train which was in the Haridashpur Station thereby causing damage to some wagons.

3. A full fledged enquiry was held and vide order dated 13th August, 1987 contained in Annexure-2, the Divisional Mechanical Engineer, Khurda Road ordered reversion of the petitioner to the post of fireman-II for a period of three years. This was challenged in appeal and the Divisional Railway Manager, Khurda Road enhanced the penalty and ordered compulsory retirement of the petitioner who filed an application under section 19 of the Administrative Tribunals Act, 1985 before this Bench seeking to quash the order of punishment. It formed subject matter of Original Application No.108 of 1989 and this was decided in August, 9, 1989. This Bench quashed the order of compulsory retirement on the ground that notice was not given to the delinquent officer before the penalty was enhanced. Though an appeal has been filed by the petitioner it has not been disposed of. Hence this application has been with the aforesaid prayer.

4. In their counter, the Opposite Parties maintained that the case is of fullfledged evidence and principles of natural justice has been followed in strict, according to law, the order of punishment should be sustained and the case being devoid of merit is liable to be dismissed.

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5. We have heard Mr. Anil Deo learned counsel for the Petitioner and Mr. D.N.Misra learned Standing Counsel for the Railway Administration. In the impugned order of punishment passed by the Disciplinary Authority, we find that copy of the enquiry report has been ~~enclosed~~ ^{enclosed} endorsed to the impugned order of punishment. Copy of the enquiry report was not supplied to the delinquent officer before impugned order of punishment was passed. Therefore, following the principles laid down by the Hon'ble Supreme Court in the Case of Union of India Vs. Mohd. Ramzan Khan reported in AIR 1991 SC 471 we would set aside the order of punishment and remand the case to the disciplinary authority to direct the petitioner to file his statement, if any, attacking the findings of the enquiry officer and if the petitioner demands a personal hearing he should be heard after which an order according to law be passed. We hope and trust the disciplinary authority would pass necessary orders within sixty days from the date of receipt of a copy of this judgment and in case an adverse order is passed and an appeal is filed by the Petitioner which should be disposed of within 30 days from the date of filing the appeal.

6. Since we have set aside the order of punishment on a technical ground, the petitioner is not entitled ^{to} reinstatement or any backwages. His entitlement on these matters would govern the result of ^{the proceeding} this application.

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

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8-7-92

MEMBER (ADMINISTRATIVE)



8-7-92

VICE CHAIRMAN