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B.C.Mohapatra Applicant.

Deputy Controller, Central Excise
and others ... Respondents.

For the respondents ... Mr. P. N. Mohapatra,
Addl. Standing Counsel (Central)

END OF MATR

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.381 of 1990.

Date of decision... April 23, 1992.

B.C.Mohapatra ... Applicant.

Versus

Deputy Controller, Central Excise
and others ... Respondents.

For the applicant ... M/s.S.N.Kar,
S.C.Misra, Advocates

For the respondents ... Mr.P.N.Mohapatra,
Addl. Standing Counsel (Central)

C O R A M;

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

A N D

THE HONOURABLE MR.C.S.PANDEY, MEMBER (ADMN.)

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 prays to quash the order of punishment passed against the applicant as per Annexure-3 reducing the pay of the applicant to the stage of Rs.440/- for a period of one year from the date of impugned order.

2. Shortly stated, the case of the applicant is that in the year 1982 a disciplinary proceeding was initiated against the applicant and after a full-fledged enquiry he was found to be guilty and ultimately an order of punishment was passed as per Annexure-3. Appeal preferred by the applicant

did not yield any fruitful result. Hence, this application

has been filed with the aforesaid prayer.

3. No counter has been filed in this case and prayer for adjournment had been refused for the reasons stated in the ordersheet.

4. We have heard Mr.S.C.Misra, learned counsel for the applicant and Mr.P.N.Mohapatra, learned Additional Standing Counsel(Central) on the merits of the case. We do not propose to express any opinion on the factual aspects or the legal aspects touching the merits of the case because of the order we propose to pass. In Annexure-3 we find that the enquiry report has been enclosed to the impugned order of punishment. In the case of Union of India and others v. Mohd. Ramjan Khan reported in AIR 1991 SC 471, Hon'ble Chief Justice of India (Mr.R.N.Misra) speaking for the Court was pleased to observe as follows at paragraph 18 of the judgment:

" 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. "

5. Since a copy of the enquiry report was not delivered to the applicant before the order of punishment was passed, in our opinion, there has been a failure in the compliance of principles of natural justice and the dictum laid down by Their Lordships in the aforesaid case applies with full force to the facts of the present case. Therefore, we do hereby quash the

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order of punishment contained in Annexure-3 and the appellate order confirming the order of punishment and we would remand this case to the disciplinary authority with a direction that as an abandon precautionary measure a copy of the enquiry report be furnished to the applicant within 15 days from the date of receipt of a copy of this judgment and within 15 days therefrom the applicant would file a representation and in case he expressed to be heard in person, the same opportunity should be given to him and within 30 days therefrom the disciplinary authority should pass final orders.

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

Chandray
.....
MEMBER (ADMINISTRATIVE) *23/4/92*

23/4/92
.....
VICE-CHAIRMAN

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
April 23, 1992/Saranghi.