CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No.387 of 1990

Date of Decision 29.4.1992

Sripaty Satapathy Applicant

Versus

Union of India & Others Respondents

For the applicant M/s.Devanand Mishra
Deepak Mishra,
R.N.Naik,A.Deo,
P.Panda,B.S.
Tripathy,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 ? No

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 punishment awarded to him by the competent authority removing the petitioner from service.

2. Shortly stated the case of the petitioner is that he was proceeded against in a disciplinary enquiry and punishment filed.

3. In their counter the opposite parties maintain that no illegality having been committed the punishment should be sustained.

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. The enquiry report was not furnished to the petitioner before awarding the punishment as it would appear from Annexure-4 that the inquiry report was enclosed to the order of punishment. Hence principles of natural justice has not been complied. This case is covered by the dictum laid down by Their Lordships of Supreme Court in the case of Union of India vs. Mohd.Ramzan Khan reported in AIR 1991 SC 471. My Lord the then Chief Justice of India Mr.R.N. Mishra speaking for the Court at paragraph 18 of the judgment 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 particular charges with proposal for any particular punishment or not, the delinquent is 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. In view of the dictum laid down by Their Lordships of the Supreme Court we are of opinion that principles of natural justice has not been complied and hence the order of punishment issued by the competent authority and so also the appelate order is hereby quashed. Hence the case is remanded to the disciplinary authority with a direction to cause service of inquiry report, as an abundant precautionary measure and within 15 days therefrom the petitioner will be at liberty to file representation and in case he demands a personal hearing that should be allowed to hi, and within 30 days from the date of closure of the proceeding, the disciplinary authority should pass necessary orders according to law.

6. Since we have quashed the order of punishment on a technical ground the petitioner shall not be entitled for reinstatement and backwages. Reinstatement of the petitioner and backwages will be decided by the orders to be passed by the disciplinary ahthority. Thus the case is accordingly disposed of leaving the parties to bear their own cost.

29.4.92

MEMBER (ADMINISTRATIVE) VICE-CHAIRMAN

29/4/92

Central Administrative Tribunal
Cuttack Bench, Cuttack
dated the 29th April, 1992/Sahoo