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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 428 of 1990.

Date of decision : July 10, 1992.

Mahendra Kumar Bishi	...	Applicant.
Versus		
Union of India and others ...		Respondents.
For the applicant ...	M/s. Devanand Misra, Deepak Misra, A. Deo, B. S. Tripathy, Advocates.	
For the respondents ...	Mr. A. K. Misra, Sr. Standing Counsel (CAT)	

C O R A M:

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

A N D

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

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 wish to see the fair copy of the judgment ? Yes.

...

JUDGMENT

K.P. ACHARYA, V.C., In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant challenges the order passed against him imposing a penalty of removal from service by the Superintendent of Post Offices, Kalahandi Division.

2. Shortly, stated, the case of the applicant is that certain allegations were levelled against him as a result of which the disciplinary authority ordered removal of the applicant from service. The appeal filed by the applicant did not yield any fruitful result. Hence, this application.

3. Mr. Deepak Misra, learned counsel for the applicant urged on the merits of the case stating that the applicant was not given reasonable opportunity to adequately defend himself. On the other hand, Mr. Aswini Kumar Misra, learned Senior Standing Counsel (CAT) for the respondents submitted that there is overwhelming evidence in this case and there is no evidence of non-compliance of principles of natural justice. But we find from the impugned order of punishment that copy of the enquiry report was sent to the applicant along with the impugned order of punishment. Hence, according to the dictum laid down in the case of Union of India and others vrs. Mohd. Ramzan Khan, reported in AIR 1991 SC 471, we find that there has been non-compliance of the principles of natural justice as copy of the enquiry report must be furnished to the delinquent officer before the disciplinary authority passes the final order. The delinquent Officer would be at liberty to submit his

representation attacking the report of the enquiry officer and if he demands to be personally heard then he should be allowed. In the present case, there is violation of principles of natural justice. Therefore, we do hereby quash the order of punishment and also the appellate order, and we remand this case back to the disciplinary authority to give an opportunity the applicant to submit his representation attacking the findings of the enquiry report and thereafter the disciplinary authority may pass orders according to law.

4. The applicant is not entitled to reinstatement or any back wages as we have remanded the case on a technical ground. We hope and trust the disciplinary authority will dispose of the matter finally within 60 days from the date of receipt of a copy of this judgment and in case, any adverse order is passed and appeal is preferred to the appellate authority the same should be disposed of within 30 days from the date of filing of the appeal. The matters urged by Mr. Deepak Misra attacking the merits of the case are kept open and liberty is given to the applicant to re-agitate the same if occasion arises in future.

5. This application is accordingly disposed of leaving the parties to bear their own costs.

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MEMBER (ADMN.)



Central Administrative Tribunal
Cuttack Bench, Cuttack
July 10, 1992/Sarangi.

James D. B.
10-7-92