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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 453 of 1990.

Date of decision: April 30, 1992.

K.L.Sahu

...

Applicant.

Versus

Union of India and others ...

Respondents.

For the applicant ...

M/s.D.R.Pathayak,
C.R.Kar, R.N.Nayak,
S.Pattnaik, Advocates.

For the respondents ...

Mr.L.Mohapatra,
Standing Counsel (Railways)

...

C O R A M:

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

A N D

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

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 him contained in Annexure-3 and confirmed in Annexure-5.

2. Shortly stated, the case of the applicant is that while he was serving as a Parcel Supervisor in Sambalpur Railway Station a set of charges were delivered to him for having misconducted himself. After a regular enquiry the Senior Divisional Commercial Superintendent found the applicant guilty of the charges for having accepted illegal gratification of

Rs.4/- and ordered compulsory retirement of the applicant and

on appeal the appellate authority ^{altered} ~~reduced~~ ^{quantum of} the same punishment by reducing the applicant to the next lower post. Hence, this application has been filed with the aforesaid prayer.

3. In their counter, the respondents maintained that this case being devoid of merit is liable to be dismissed.

4. We have heard Mr.D.R.Pattnayak, learned counsel for the applicant and Mr.L.Mohapatra, learned Standing Counsel (Railways) for the respondents. Mr.Mohapatra submitted that in no circumstances the order of punishment should be set aside because corruption has become so rampant now a days, stringent view should be taken in the matter. We do appreciate the anxiety of Mr.Mohapatra to root out corruption but at the same time we cannot shut our eyes to the fact that principles of natural justice have not been complied in this case in view of non-delivery of the copy of the enquiry report to the delinquent Officer before the order of punishment was passed. My Lord the Chief Justice of India, Mr.R.N. Misra in the case of Union of India and others Vrs. Mohd. Ramzan Khan, reported in AIR 1991 SC 471 at paragraph 18 of the judgment, speaking for the court 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 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. In view of the fact that the copy of the enquiry report was ^{not} furnished to the delinquent official along with the order of punishment, the observations of the Hon'ble Supreme Court in the aforesaid case apply with full force to the facts of the present case. Therefore, we do hereby quash Annexures-3 & 5 and remand the case to the disciplinary authority with a direction that a copy of the enquiry report be furnished to the delinquent officer within 15 days from the date of receipt of a copy of the enquiry report and ^{there} within 15 days from the applicant would file a representation which should be duly considered by the disciplinary authority after giving a personal hearing to the applicant, if he so ^{and} desires ~~within~~ 30 days therefrom the final orders ~~should be~~ passed. We hope and trust that in view of the paltry amount alleged to have been accepted by the applicant, the disciplinary authority would give a serious consideration regarding the quantum of punishment and if a lenient view could be taken in the matter.

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

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MEMBER (ADMINISTRATIVE)

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VICE-CHAIRMAN

Central Administrative Tribunal
Cuttack Bench, Cuttack.
April 30, 1992/Saranggi.

