

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O. A. No. 491 1992.

DATE OF DECISION 5.2.93

V. Abdul Khader Applicant (s)

Mr. M.R. Rajendran Nair Advocate for the Applicant (s)

Versus

The Supdt. Central Telegraph Respondent (s)
Office, Calicut and others

Mr. P. Sankarankutty Nair, A.C.S.C. Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. N. DHARMADAN JUDICIAL MEMBER

The Hon'ble Mr. R. RANGARAJAN ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. To be circulated to all Benches of the Tribunal? No

JUDGEMENT

MR. N. DHARMADAN JUDICIAL MEMBER

The applicant is aggrieved by the disciplinary proceedings and consequent punishment of compulsory retirement as per Annexure-II order dated 26.12.86⁴ and ~~by the~~ appellate order Annexure-IV dated 28.8.87 and Revisional order Annexure-VI dated 14.10.91⁵ confirming the punishment.

2. The applicant while working as Higher Grade Telegraphist at Calicut was proceeded against under Rule 14 of CCS (CCA) Rules on various grounds. Though the applicant denied charges levelled against him, an inquiry was conducted and on the basis of the recommendation of the inquiry officer, he was compulsorily retired from service. The main ground urged by the learned counsel for the

applicant is that the orders are vitiated because of the non-compliance of the provisions of furnishing a copy of the enquiry report before imposing of the punishment by the disciplinary authority. He has/^{raised}specific ground in the original application. Ground D is extracted below:

" The findings of the respondents without furnishing a copy of the inquiry report to applicant is violative of the principles of natural justice and violative of Article 311(2) of the Constitution of India. By the denial of copy of inquiry report applicant was denied the opportunity to disabuse the mind of the disciplinary authority against the findings of the inquiry officer."

3. The respondents have filed a detailed reply but they have admitted the statement of the applicant that copy of the enquiry report was not furnished before the imposition of the original punishment by the disciplinary authority. They have stated in para 15 that the inquiry officer's report was sent to the applicant simultaneously with the order of the disciplinary authority. Hence, it is clear that the punishment order at Annexure-II and the orders at Annexure-IV and VI were also vitiated. The Supreme Court in Union of India V. Mohd. Ramzakhan, 1991 SC 471 has clearly held that the failure of furnishing a copy of the inquiry report before imposing the punishment of compulsory retirement is vitiated and violation of the principles of natural justice.

4. Having regard to the facts and circumstances of the case, we are of the view that this application can be allowed. Accordingly, we set aside the impugned orders Annexure-II, Annexure-IV and Annexure-VI and remand the case before the disciplinary authority for continuing the disciplinary proceedings from the stage of furnishing a copy of the enquiry report. Since the enquiry report has already been furnished to the applicant along with the Annexure-II order, the applicant shall be given one month's

time from the date of receipt of a copy of this judgment, to file reply to the enquiry report. The respondents shall consider the same and finalise the disciplinary proceedings in accordance with law without any further delay.

5. The application is accordingly allowed with the above observation/direction.

6. There shall be no order as to costs.



(R. RANGARAJAN)
ADMINISTRATIVE MEMBER



(N. DHARMADAN)
JUDICIAL MEMBER

kmm