

CENTRAL ADMINISTRATIVE TRIBUNAL: ERNAKULAM BENCH

Date of decision: 16-11-89

Present

Hon'ble Shri NV Krishnan, Administrative Member  
and

Hon'ble Shri N Dharmadan, Judicial Member

DA No.614/89

Thankachan Peter

: Applicant

Vs

1 The Senior Superintendent of  
Post Offices, Ernakulam Division,  
Cochin-11.

2 The Director of Postal Services,  
Central Region, Cochin-11.

3 Union of India rep. by the  
Secretary to Government,  
Ministry of Communications,  
Department of Posts, New Delhi

: Respondents

Mr Abraham Kurian

: Counsel of Applicant

Mr TPM Ibrahim Khan, ACGSC

: Counsel of Respondents

O R D E R

Shri NV Krishnan, Administrative Member.

The applicant who was a Leave Reserve Postman in Tripunithura Postal Sub-Division was charge sheeted in disciplinary proceedings under Rule 14 of the Central Civil Service (Classification, Control & Appeal) Rules, 1965 by the Memo dated 18.8.88 of the Senior Superintendent of Post Offices, Ernakulam Division (Respondent-1). An Inquiry Officer was appointed to enquire into the charges and submit a report to the Disciplinary Authority. After considering the report dated 29.12.88 submitted by the Inquiry Authority, Respondent-1 passed an order on 9.1.89

(Annexure-I) removing the applicant from service with immediate effect.

2 Against this order, the applicant filed an appeal to the Director of Postal Services which was disposed of by the order dated 29th August, 89 (Annexure-II).

A perusal of the appellate order shows that the applicant had raised many grounds amongst which one was that the Disciplinary Authority had passed the final orders without giving the applicant an opportunity to make a representation on the inquiry report. After considering various aspects, the appeal was dismissed.

3 It is against these two orders of the Disciplinary Authority and the Appellate Authority that this application has been filed.

4 When the case was ~~xxxxxx~~ admitted, the Respondents were directed to file a statement whether the allegation <sup>was</sup> ~~is~~ correct or not. The Disciplinary Authority arrived at his conclusion about the applicant's guilt without furnishing to him a copy of the inquiry report. Such a direction was given as it was felt that if the allegation was true, the proceedings would have been vitiated by the denial of a reasonable opportunity to the applicant to defend himself.

5 In pursuance of this direction, Counsel of Respondents ~~has~~ filed a statement dated 3.11.89. It is stated that the connected files were perused and it was found that the

copy of the inquiry report had not been furnished to the delinquent employee, i.e., the present applicant, before a decision about his guilt was taken.

6 We have heard the counsel. In fact, the counsel of Respondents was specifically given an opportunity to address arguments, if any, as to why in such circumstances it should not be held that the proceedings are vitiated on the ground mentioned above and be quashed. The learned counsel for the Respondents could not show any reason why such a decision should not be taken.

7 We are of the view that while the delinquent is no doubt ~~ix~~ given an opportunity to participate in the inquiry, it is the report of the Inquiry Officer which ultimately is most likely to influence the decision that may be taken by the Disciplinary Authority <sup>about his guilt.</sup> That being the case, the principles of natural justice requires that <sup>before</sup> the Disciplinary Authority makes up his mind as to whether a delinquent servant is guilty or not, it is only fair that the delinquent government servant is given a copy of the Inquiry Officer's Report so that he can make his submissions

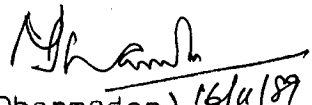
with respect to that report and persuade the Disciplinary Authority about his innocence. *By Having regard to the statement of Respondents Counsel & the facts of this case* We are of the view that

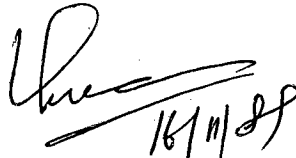
this is one of the basic requirements of giving a reasonable delinquent in a disciplinary proceeding <sup>that</sup> opportunity to the ~~applicant~~ <sup>As such an opportunity has</sup> not been given, we find <sup>that</sup> the disciplinary proceedings have been ~~be~~ vitiated. Accordingly, the impugned orders Annexure I and Annexure II are quashed.

\* imposing a major penalty.

8 We, however, clarify that the Respondents are at liberty to proceed with the inquiry, if they so choose, from the stage reached when the Inquiry Officer submitted his report dated 29.12.88 to the Disciplinary Authority.

9 The application is disposed of with the above directions.

  
(N Dharmadan) 16/11/89  
Judicial Member  
16.11.89

  
(NV Krishnan)  
Administrative Member  
16.11.89