

A6

CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH LUCKNOW.

....

Registration O.A. No. 35 of 1989

Shiv Prakash Awasthy Applicant.

Versus

Union of India
and others Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon'ble Mr. K. Obayya, Member (A)

(By Hon. Mr. Justice U.C. Srivastava, VC)

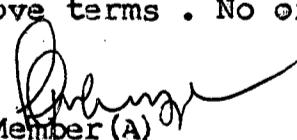
The applicant while working as Driver was charge-sheeted because of an accident which was caused due to his ~~@@~~ negligence. An enquiry officer was appointed and the enquiry officer conducted the enquiry and after completion of the enquiry, the enquiry officer came to the conclusion that the charges against the applicant were not proved. The disciplinary authority did not agree with the findings recorded by the enquiry officer and has consequently, punished the applicant by reducing him from the Engine Driver (C) to the post of Shunter for the period of three years with postponing future increments. The applicant filed an appeal against the same and the appeal ~~too~~ was dismissed, thereafter, he has filed this application.

2. According to the respondents, the applicant was responsible for causing an accident and only minor punishment was given to him. But, in this case, if the enquiry officer has exonerated the applicant, the disciplinary authority, in case disagrees with the findings of the enquiry officer, should have assigned reasons for his disagreement and he should have issued

AM

a show cause notice to the applicant which makes him enable to file effective representation against the same, but the same was not done and an opportunity of hearing was not given to the applicant, which violates the principles of natural justice. In this connection, reference has been made to the case of Narainji Mishra Vs. State of Orissa, 1969 SLR page 657 wherein it has been held that when the disciplinary authority did not agree with the findings of the enquiry officer, giving of the notice is must and without giving him notice and an opportunity of hearing no order can be passed.

3. Accordingly, this application is allowed and the order of punishment dated 16.12.1987 and the appellate order dated 2.3.1988 are quashed. However, this will not preclude the disciplinary officer from going ahead with the disciplinary proceedings after giving show cause notice and an opportunity of hearing to the applicant. The application is disposed of with the above terms. No order as to costs.


Member (A)


Vice-Chairman

Dated: 16.9.1992

(n.u.)