

ALB

CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH LUCKNOW.

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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

a show cause notice to the applicant which ~~makes~~
~~him~~ enable ^{him} 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 Narainii Mishra Vs. State of Orissa, 1969 3LR 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 to the disciplinary officer from
disciplin
going ahead with the ~~enquiry~~ 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.)