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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH  
Registration O.A.No. 418 of 1987

H.C.Srivastava

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Applicant

Vs.

Union of India & Others

....

Respondents

Hon'ble Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. A.B. Gorthi, Member (A)

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

The applicant who was working as Senior Goods Clerk in N.E. Railway, Gonda was chargesheeted in respect of loading of wheat in a wagon without preparation of forwarding note and Railway receipt. During the continuance of restriction as per allocation of business on the relevant date Chief Goods Clerk had to allot wagons and maintain T 80 Register. But as the same was not done, a chargesheet was issued against the applicant. The applicant submitted his reply against the said chargesheet. An enquiry was held. The grievance of the applicant is that in enquiry he was not given reasonable opportunity to defend himself and not even to find a Defence Assistant of his choice or even to examine the cross-examine of the witness. Various other flaws have been pointed out. It has also been stated that the Enquiry Officer's report was not furnished to the applicant either by the Disciplinary Authority or by the Enquiry Officer and the Disciplinary Authority without furnishing the copy of the Enquiry Officer's report to the applicant reverted him to the lower post of Goods Clerk at the initial pay scale for five years. Against the said order the applicant filed an appeal. The punishment order was maintained but the period was reduced from five years to two years. Thereafter, the applicant approached this Tribunal. A number of plea has been taken by the applicant.

2. The respondents have tried to justify their action and have stated that the applicant himself was responsible for malice of the enquiry, as it was deemed that he was avoiding to appear in the enquiry, and enquiry had to be concluded and it was accordingly

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copy of the concluded. But admittedly even then the Enquiry Officer's report was not furnished to the applicant to file a representation against the same, and the same was given to him alongwith the penalty order. The same vitiates the entire proceedings. As has been held in the case of Union of India & Others Vs. Mohd. Ramzan Khan & Others, AIR 1991 SC 471. Wherever an Enquiry Officer was appointed and the enquiry has been held and the Enquiry Officer submitted his report to the Disciplinary Authority holding the delinquent employee guilty and proposed him punishment and the copy of the Enquiry Officer's report is not given to the applicant to make effective representation against the proposed punishment. Thus the entire enquiry proceedings have been vitiated and the same violates the principal of natural justice, and the punishment cannot be maintained. The same arises here, and accordingly this application is allowed and the order of punishment dated 9.4.87 and the Appellate Order dated 25.11.86 are quashed, and the applicant shall be deemed to be continuing in service and entitled to all the consequential benefits. However, this judgment will not preclude the Disciplinary Authority from going ahead with the enquiry proceedings after furnishing the copy of the Enquiry Officer's report to the applicant after giving him reasonable time to file objection against the same. No order as to costs.

  
Member (A)

  
Vice-Chairman.

13th December, 1991, LKO.

(sph)