

AS

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

T.A. No. 8/92

(O.A. 1141/91)

B. Madho Rao
Shri Surendran P.

Applicant
for Applicant

versus

Union of India & Others
Shri Amit Sthalkar

Respondents.
for Respondents.

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

Hon. Mr. A.B. Gorthi, Adm. Member.

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

The applicant was working as Branch Manager in the Films Division, Ministry of Information and Broadcasting at Bombay. In the year 1990 he was posted at Lucknow and from Lucknow he was transferred to Calcutta against which he filed claim petition before this Tribunal and the transfer was stayed. Earlier when he was staying at Hyderabad, he was involved in a criminal case under sections 409, 477 A I.P.C and under section 5(2) read with section 5(1) of Prevention of Corruption Act. In the said case the applicant was convicted by the order dated 24.10.91 against which he filed an appeal before the High Court at Hyderabad and the appeal is pending and vide order dated 15.11.91 the applicant was dismissed from service and that is why he approached this Tribunal. The contention on behalf of the applicant is that as he was bailed out, his detention was stayed and deemed to be a person who was not convicted and there was no

occasion for the department to dismiss him without giving him opportunity of hearing.

2. It appears that the Chief Producer considered the case of the applicant and considered that the conduct of the applicant is such as has led to his conviction and further and the order of dismissal from service has been passed as a result of conviction of the petitioner on a criminal charge, it was not necessary or mandatory to consult the Union Public Service Commission before passing the order of dismissal. Moreover, it was not necessary nor mandatory to give the petitioner any opportunity of making representation on the penalty proposed to be imposed before passing the order of dismissal from service. The applicant filed representation and the representation was dismissed.

3. In support of his contention that the opportunity of hearing should have been given to the applicant, the learned counsel for the applicant has placed reliance on a Judgment of Allahabad High Court in Dost Mohammad vs. Union of India & others 1981(3) SLR 274 in which the it was held:

"Removal from service as a result of conviction on Criminal Charge without affording any opportunity-Disciplinary authority before imposing punishment under obligation to consider the

circumstances of the case and apply its mind to the relevant factors and only thereafter impose suitable penalty-Order imposing penalty without any opportunity violative of rules of natural justice."

4. In the case of Union of India vs. Parmanand (AIR 1989SC 1185) it was held that the jurisdiction of the Tribunal to interfere with the disciplinary matters or punishment cannot be equated with an appellate jurisdiction. It was further held: Jurisdiction of the Tribunal-Scope-Penalty imposed on delinquent employee by competent authority-Tribunal cannot interfere with it on ground that it is not commensurate with delinquency of employee-Exception to this rule stated"

The case law cited by the learned counsel for the applicant in Dost Mohammad vs. Union of India (Supra) has no relevancy, as it was decided years before the decision in Tulsiram Patel's case(A.I.R. 1985 S.C. 1416) In the instant case, although no enquiry was made but the authority examined the matter and after satisfying itself that the applicant should not be retained in service, dismissed the applicant from service in accordance with law.

5. We would not make any observation. If the conviction is set aside, it is for the applicant

to approach the authorities for redressal of his grievance or for reinstatement.

6. With the above observation the application is disposed of with no order as to costs.

Shakeel

Adm. Member.

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vice Chairman.

Shakeel/

Lucknow: Dated: 29.5.92.