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CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH.

T.A.No. 1073 of 1987.

Vidya Shanker PandeyApplicant.

Versus

Union of India & 3 othersRespondents.

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

Hon'ble Mr.A.B.Gorthi,A.M.

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

This case has been transferred to this Tribunal under section 29 of the Administrative Tribunals Act.

2. The applicant filed a writ petition before the Lucknow Bench of High Court praying that a certiorari writ quashing the impugned orders dated 7.12.81 and 14.7.82 by which the applicant has been dismissed from service, be issued and quashed.

3. The applicant was appointed on 7.11.54 as Breakman in the N.E.Railway. He was served with a show case notice dated 18.11.81 issued by the opp.party no.3 in which it was alleged that on 7.11.81, the applicant entered the chamber of opp.party no.4 and assaulted him and tried to drag the opp.party no.4 out of the office and further threatened him and his family. The other allegations made in the show-cause notice were relating to about one year back i.e. 10.1.81 and 8.9.81 that on both these occasions, the applicant threatened the opp.party no.4 and his family and the applicant had also tried to assault them. The applicant submitted his reply denying all the allegations levelled against him. After

receipt of reply of the applicant, the opp. party no.3 dismissed the applicant from service on 7.12.81 misusing his unwarranted powers under Rule 14(ii) of the Railway Servants(Discipline and Appeal) Rules, 1968. Feeling aggrieved with the same, the applicant filed an appeal before the departmental authority which was also dismissed

4. The respondents submitted their written statement denying the claim of the applicant. They have stated that the applicant was given opportunity to explain his misconduct vide letter dated 18.11.81 which was received by the applicant. The reasons were recorded in writing by the Disciplinary Authority in invoking provisions of Rule 14(ii) of the Rules, 1968 and for dispensing with the enquiry.

5. Learned counsel for the applicant stated that without/full-fledged enquiry the applicant can not be dismissed from service and Rule 14(ii) of Rules, 1968 is not applicable in this case. No reasons have been recorded by the opp. parties as to why it is impracticable to hold an enquiry in the matter which has been decided by the opp. party no.3 in an arbitrary manner. The applicant was never given any opportunity to forward his case. He was also not supplied the documents relied by the opp. parties which is violative of the provisions of section 311 of the Constitution of India. The applicant has been dismissed from the service without giving an opportunity of being heard. The applicant was also not given the documents relied by the opp. parties, as such the provisions of Rule 14(2) of the Rules, 1968 are not applicable in this case. Accordingly, the application deserves

to be allowed. The application is allowed and the orders dated 7.12.81 and 14.7.82 are quashed. However, it will be open for the respondents to hold an enquiry in accordance with law. No order as to cost.

transcr

MEMBER (A)

bc

VICE CHAIRMAN.

Dated: 3.3.1992

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