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CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BEACH LUCKNOW

Original Application No. 190 of 1992

VERSUS

Union of India & Others Respondents

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

Hon'ble Mr. K. Obayye, Member (A)

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

The applicant who was Extra Departmental Branch Post Master, was charged for number of offences committed by him including the utilisation of used-up stamps. The enquiry Officer was appointed to conduct the enquiry. The enquiry Officer found that three charges were not proved and only one charge against the applicant which is said to be minor one was proved. Punishing Authority i.e. the Disciplinary Authority did not agree with the same, but recorded its own finding holding the applicant guilty of all the charges and passed the dismissal order. Feeling aggrieved against the same, the applicant has approached the tribunal.

2. The grievance of the applicant is that the holding disciplinary authority before / guilty disagreed with the findings of the Enquiry Officer, did not issue any show-cause notice and also did not give any opportunity of hearing to the applicant and without assigning any reasons, the severe punishment was given. This was done in violation of principle of natural justice. The contention appears to be correct in view of the decision of Supreme Court in the case of Sri Narayan Ji Mishra Vs. State of Orissa, (1960, S.L.R. page 657), wherein it was held that :

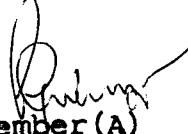
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"beyond a duty upon the punishing authority in case, it ~~is~~ disagrees with the findings recorded by the enquiry officer without issuing the show cause notice and without giving opportunity of hearing to the retrenched employee."

Accordingly, in these circumstances, the punishment order deserves to be quashed and the order dated 31.12.1991 is quashed. However, it is being made clear that it is open for the disciplinary authority to give reasons for difference and give an opportunity to the applicant to make representation against the same and pass an order thereafter in accordance with law. The application is disposed of finally with these terms. No order as to costs.



Member (A)



Vice-Chairman

Lucknow Dated: 28.1.1993

(RKA)