

CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH LUCKNOW.

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Registration T.A. No. 1170 of 1987
(W.P. No. 3742 of 1983)

Bal Krishna Awasthi Petitioner/
Applicant.

Versus

Union of India
and others Respondents.

Hon. 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 was appointed as 'Extra Departmental Branch Post Master' Bauna Bhari, District Sitapur dated 20.2.1969. On 5.10.1971, he handed over his charge to one Mishri Lal on his own responsibility to perform duties. The applicant felt an apprehension on 21.10.1971 that he was being maliciously involved in a murder case. He went to make an enquiry on 22.10.1981 in the court whether he was arrested and sent to jail, and he was bailed out only after 13 months, and finally on appeal he was acquitted by the High Court, Allahabad on 10.7.1975. The applicant, thereafter wanted to resume the duty but instead of allowing him to resume the duty, a charge sheet was given to him on 3.1.1980, and the charge against the applicant was that he did not submit any application for leave after 31.10.1971 and the other charge was that he did not furnish any information on 22.10.1971 before his surrender to the court. An enquiry officer was appointed and the enquiry officer concluded his enquiry. The enquiry officer held that both the charges were partly proved and he submitted his finding to the disciplinary authority. The disciplinary

authority, it appears, disagree with the findings of the enquiry officer and held that both the charges were proved and an order of removal from service was passed. The applicant filed an appeal which was dismissed thereafter, he approached to the Tribunal. On behalf of the applicant, it has been contended that when the disciplinary authority did not agree with the findings of the enquiry officer, according to whose recommendation, the applicant was to get a minor charge sheet and was not to be thrown out from service, an opportunity of hearing should have been given to him but the same was not done and no show cause notice was given to the applicant as to why charges should not be held to be proved in entirety. In this connection, a reference has been made to the case of Narainji Mishra Vs. State of Orissa, 1969, SLR page, 257, in which it was held that notwithstanding the deletion of Art.311(2) of the Constitution of India, in case the disciplinary authority defers from the finding of the enquiry officer, the principle of natural justice will be applicable on the disciplinary authority to give an opportunity of hearing to the delinquent employee to show cause as to why the charges may not be held to be proved upon him, but that was not done.

2. In these circumstances, this application deserves to be allowed and both the orders are quashed. However, it will open for the disciplinary authority to give a show cause notice to the applicant and thereafter to go

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ahead with the enquiry. However, it is clear that he has not done any work during this period, he will not be entitled to any back wages up to the stage. The application is disposed of with the above directions. Parties to bear their own costs.

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Member(A)

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Vice-Chairman

Dated: 29.1.1992

(n.u.)