

Central Administrative Tribunal, Lucknow Bench, Lucknow

OA No. 205/2005

This, the 19th day of May, 2005

Hon'ble Mr. Shankar Raju, Member (J)
Hon'ble Mr. S.P. Arya, Member (A)

Durga Prashad
S/o Shri Ram Dass,
R/o Village Bhimpur,
Post Bhimpur, Distt. Shivan,
Bihar.

...Applicant

(By Advocate:A.M.TRIPATHI

-versus-

1. Union of India through
Secretary to the Govt.,
Railway Department (N.R.)
Central Secretariat,
New Delhi.

2. Senior General Manager (NR),
Baroda House,
New Delhi.

3. Electrical Engineer,
Northern Railway,
Charbagh, Lucknow.

4. Assistant Workshop Electrical Engineer,
Charbagh, Lucknow.

...Respondents

(By Advocate:N.K.AGARWAL.

ORDER (ORAL)

By Mr. Shankar Raju, Member (J):

Heard the learned counsel.

2. Appointment of the applicant, who joined Railways, was cancelled and the same had been assailed in a joint OA No. 148/2000. By an order dated 17.10.2003, an opportunity to show cause was afforded. Applicants have asked for certain

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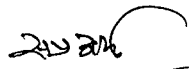
documents through their communication without showing the relevancy of the said documents. However, few of the documents have been provided. Later on, by an impugned order, show cause notice has been issued to the applicant and his services have been terminated.

3. At the outset, we may refer to the observations of the Apex Court in **State of UP vs. Ramesh Chandra Mangalik**, AIR 2002 (SC) 1241 wherein following observations have been made.

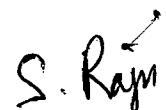
"12. Learned counsel for the appellant submitted that no material or document has been relied upon by the Inquiry Officer, copy of which or inspection thereof may not have been allowed to the respondent. No material has been obtained after the date of hearing nor any such material has been made use of by the Inquiry Officer. It is further submitted that in the judgment of the High Court it has nowhere been indicated that any material or document, copy of which has not been supplied to the respondent, was used much less any prejudice, if caused to the respondent. Learned counsel for the respondent could not pinpoint any particular document which may have been made use of by the Inquiry Officer for establishing the charges leveled against the respondent, copies of which or inspection thereof may not have been allowed to the delinquent by the Department. No submission has been advanced on behalf of the respondent on the point of prejudice which may have been caused to the respondent by non-supply of document, if any. The High Court has also not gone into the question of the relevance of the documents copies of which are said to have not been supplied to the respondent and consequent prejudice, if caused. We therefore find that the finding of the High Court that principles of natural justice have been violated for non-supply of documents to the respondent is not sustainable. The cross-examination of a witness which was sought for, had unfortunately died which fact was also brought to the notice of the respondent."

4. If one has regard to the above, even in the case of adverse orders, causing civil consequence upon the government servant for non-furnishing of material/documents upon the government servant, it is obligatory upon the person concerned to reflect the relevancy of the document and prejudice caused due to non-furnishing of the said documents which ultimately constitute an infraction to the principles of natural justice, hence consequent denial of reasonable opportunity.

5. In the result, for the foregoing reasons, without quashing the order of termination, in the event the applicant prefers a representation to the respondents stating the relevancy of the documents not furnished to him and prejudice caused thereafter, the respondents shall, on receipt of such a representation, dispose of the same by passing a speaking and reasoned order within a period of two months from the date of receipt of a certified copy of this order. In the event, the applicant remains aggrieved, it shall be open for him to revive the present O.A, which is accordingly disposed of. No costs.


(S. P. Arya)
Member (A)

/na/


(Shankar Raju)
Member (J)