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CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCLIT BENCH LUCKNOW.

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Registration C.A. No. 258 of 1987

Gopal Singh Bisth Applicant.

Versus

Union of India
and others Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon'ble Mr. K. Chayya, Member (A)

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

On the basis of this application, the applicant seeks to challenge the validity of the order of suspension dated 1.12.1986. The applicant was suspended on 4.12.1986. The applicant's service record shows that he was appointed as a clerk on 1.12.1986. He applied for promotion, thereafter, informed that the employer officer had applied for his promotion. According to the applicant, the employer officer could not have been appointed without service of a charge-sheet to the relevant employee, and he also stated that an opportunity of hearing was not given to him before the employer officer. In the report of the employer officer, it is stated that the applicant was not given a chance to be heard before the service was terminated. The applicant challenged the order on variety of grounds including that the removal order of the employer officer was an application of the principle of this is only a removal order and not a removal order. The applicant also further stated that no reasonable opportunity of being heard was given to him. The employer officer's report was also given to him. The applicant also stated that the employer officer had not given him a chance to be heard.

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of the disciplinary authority.

2. Accordingly, this application is allowed on the ground that the enquiry officer's report was not given to the applicant and no opportunity of being heard was given to him in which he could not file effective representation against the disciplinary authority's findings. In this connection, a reference has been made to the case of Sharma Vs. Union of India and others, AIR 1964 SC 144, passed by a Bench of this Hon'ble Court, wherein ^{the Hon'} it has been taken that in case the enquiry officer's report has not been given to the delinquent employee and action on the report of the enquiry officer, the disciplinary authority against the employee, the same violates the principles of natural justice. Subsequently, the very same view has been taken by the Hon. Supreme Court in the case of Sharma Vs. Union of India, AIR 1964 SC 144. Accordingly, this application is allowed on the ground that the enquiry officer's report was not given to the applicant and no opportunity of being heard was given to him in which he could not file effective representation against the disciplinary authority's findings. In this connection, a reference has been made to the case of Sharma Vs. Union of India and others, AIR 1964 SC 144, passed by a Bench of this Hon'ble Court, wherein ^{the Hon'} it has been taken that in case the enquiry officer's report has not been given to the delinquent employee and action on the report of the enquiry officer, the disciplinary authority against the employee, the same violates the principles of natural justice. Subsequently, the very same view has been taken by the Hon. Supreme Court in the case of Sharma Vs. Union of India, AIR 1964 SC 144.

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17/12/92

[Signature]
Director

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Vice-Chairman

17.12.1992