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CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

O.A. No. 172/1990

G.S. Tewari

Applicant

D.S. Chaubey

Counsel for Applicant

versus

Union of India & others

Respondents.

Dr. Dinesh Chandra

Counsel for Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. A.B. Gorthi, Adm. Member.

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

The applicant was a Postman and was chargesheeted by the Assistant Superintendent of Police Offices, West sub-division, Lucknow vide Memorandum dated 11.11.86 An enquiry officer was appointed to hold the enquiry against the applicant and one Shri Swami Dayal and a joint enquiry proceeded. The enquiry officer submitted his report holding that the charges against the applicant were proved. The charge against the applicant was leaving office unauthorisedly during the working hours and associating himself with Swami Dayal in a wrong and indiscipline act at another post office i.e.

Rajendranagar when Swami Dayal was beating Shri O.P. Bagga, Sub Post office, Rajendranagar, with chappal the applicant was also present at the spot as his colleague. Going through the enquiry report it is seen that the

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Disciplinary authority awarded the punishment to the applicant reducing the applicant by 5 stages from Rs 1070 to 970 in the time scale of pay of Rs 950-1400 for a period of five years with a further direction that the applicant will not earn increment of pay during the period of reduction and that on the expiry of this period the reduction will not have effect of the postponing of his future increments of pay. The applicant filed appeal before the Director, Postal Services which was rejected and the penalty was confirmed.

2. On behalf of the applicant it has been contended that the order of punishment was violative of principles of natural justice, unjust and no opportunity was given to the applicant. The respondents have admitted the position that the enquiry report was not furnished to the applicant before awarding the punishment

3. The copy of the enquiry report was not furnished to the applicant, and it is admitted fact by the respondents, the enquiry proceedings are vitiated on this ground alone. In the case of Union of India vs. Mohd. Ramzan Khan (AIR 1991 SC 471) it has been held that non furnishing of the report of enquiry to the delinquent itself vitiates the whole proceedings. Accordingly, this application is allowed and the appellate order dated 31.7.89 and the punishment order dated 30.12.88 are quashed. However, this will

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not preclude the respondents to initiate the enquiry ^{proceed with} beyond the stage of enquiry, giving the applicant a copy of the enquiry officer's report ^{by} ~~opportunity of hearing.~~

4. The application is disposed of with the above directions, with no order as to costs.

Shakeel

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V.C.

Shakeel/ Lucknow: Dated: 28-5-72