

(R3)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIRCUIT BENCH

LUCKNOW

O.A. 225/90

Ramzan Ali

Applicant

versus

Union of India & others

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 who was transferred to Electrical Division and was confirmed on 1.10.1985, has made certain allegations of malafides against some of the officers stating that he was chargesheeted on 3.8.87 by the Superintending Engineer (Electrical) who is neither the appointing nor the disciplinary or punishing authority of the applicant. The disciplinary enquiry proceeded and the enquiry officer submitted his report. From the facts it appears that the enquiry officer submitted his report without giving a copy of the same to the applicant. The disciplinary authority, agreeing with the enquiry report passed the order dated 16.11.88 dismissing the applicant from service. Even alongwith this order, the report of the enquiry officer was not furnished to the applicant and it was given to the applicant on 7.12.88 alongwith letter dated 5.12.88. The applicant filed departmental appeal which was not decided. After waiting for a few months he approached the Tribunal.

Although, the order has been challenged on variety of grounds, but it is not necessary to go into the grounds in detail, as this application deserves to be allowed on the ground that the copy of the enquiry report was not given to the applicant to file any representation and the applicant was thus prejudiced in his defence. This action of the respondents was violative of principles of natural justice. In Union of India vs. M. Ramzan Khan (A.I.R. 1991, S.C. 471) in which it has been held that wherever enquiry has been held and the enquiry officer has recommended punishment, and the disciplinary authority has punished the delinquent, then in case the report of the enquiry is not given to the applicant to make his effective representation, the same violates the principles of natural justice and makes the entire enquiry proceedings vitiated. The same position is here in the present case. Accordingly, this application is allowed and the order of dismissal dated 16.11.88 is quashed. However, this order will not preclude the disciplinary authority from proceeding ^{and is enabled to} the enquiry beyond the stage of giving a copy of enquiry report for giving ~~him~~ opportunity to applicant to file the representation and proceed in accordance with law. Applicant will be deemed in service including with all consequential benefits including service benefits. No order as to costs.

Amber 25
A.M.

Lucknow Dt. 7.11.91
Shakeel/

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V.C.