

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT SITTINGS AT PANAJI, GOA

TRANSFERRED APPLICATION NO.82(G)/87

Shri Umesh P. Dhaimode
Deputy Superintendent of Police
Valpoi, Goa

Applicant

V/s.

1. Union of India
through Secretary
Home Affairs, New Delhi
 2. The Administrator
Goa, Daman & Diu
Panaji, Goa
 3. Shri Devinder Singh
Enquiring Authority
Commissioner for Departmental Enquiries
Block No. 10, Wing No. 8
Jamnagar House, Hutments
Akbar Road; New Delhi 110011
- Respondents

Coram : Hon'ble Chairman Shri K. Madhava Reddy
Hon'ble Member(A) Shri S.D. Prasad

Appearance:

Mr. M S Usgaonkar
Advocate
for the applicant

Mr. M I Sethna
Counsel
for the respondents

ORAL JUDGMENT
(PER: K. MADHAVA REDDY, CHAIRMAN)

DATED: 28.9.88

In this Transferred Writ Petition, in view of the decision we are taking, it is not necessary to go into the other contentions raised by the petitioner. Suffice to note that after holding the disciplinary proceedings the petitioner was awarded the penalty of reduction to five stages lower in the time scale from Rs. 810/- to Rs. 650/- in the time-scale of pay of Rs. 650-30-740-35-820-EB-35-880-40-1000-EB-40-1200 for a period of five years with effect from 23rd February 1985. He was also not permitted to

draw increments of pay during the period of reduction.

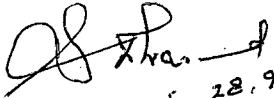
Aggrieved by that order the applicant preferred an appeal, but as that appeal was not disposed he filed Writ Petition No.140/85 in the High Court of Bombay, which stands transferred to this Tribunal.

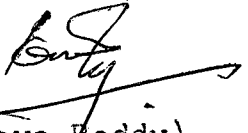
2. It is common ground that the Inquiry Officer's Report was not served on the applicant before the Disciplinary Authority recorded its findings on the charges levelled against him and before imposing the penalty referred to above.

3. A Full Bench of this Tribunal in P.K. Sharma Vs. Union of India by its judgment dated 6th November, 1987 has held that the disciplinary proceedings in which a penalty is imposed against a public servant without furnishing him a copy of the Inquiry Officer's Report would be violative of the provisions of Article 311 of the Constitution, and therefore, liable to be struck down. Bound as we are by the Full Bench judgment, we have no option but to quash the impugned order imposing the penalty as also the findings recorded by the Disciplinary Authority in respect of the charges leveled against the applicant and we order accordingly. It is, however, made clear that the quashing of the impugned order of the Disciplinary Authority will not preclude the respondents,

if they so desire, to continue the disciplinary proceedings against the applicant. If they choose to do so, they shall be bound to furnish a copy of the Inquiry Officer's Report to the applicant and to give him an opportunity to make representation against the Report. It will be open to the petitioner to take in his representation all objections as are available to him under law including those raised herein. The Disciplinary Authority would be bound to take into consideration the representation made by the applicant before recording its findings on the charges and in making the final order.

3. The application is allowed as indicated above and the impugned order dated 23rd February 1985 is quashed, with no order as to costs.


12.9.88
(S.D. Prasad)
Member (A)


(K. Madhava Reddy)
Chairman