

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JODHPUR BENCH, AT JAIPUR.

A³/1

O.A.No.737/1989.

Date of Decision: 22nd July, 91

Hazari Lal Sain

... Petitioner.

Mr.K.L. Thawani

... Counsel for the
Petitioner.

Versus

U.O.I. & Ors.

... Respondents.

Mr. U.D. Sharma

... Counsel for the
Respondents.

CORAM:

1. The Hon'ble Mr. Kaushal Kumar ... Vice Chairman.

2. The Hon'ble Mr. Gopal Krishna ... Member (Judl.)

Kaushal Kumar, Vice Chairman.

In this application filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant who was working as Extra Departmental Branch Postmaster, Bhavpura, District Kota, has challenged the Order dated 7th February, 1989 filed as Annexure A-III ^{with} the application, imposing upon him the penalty of removal from service.

2. The impugned order is challenged mainly on the ground that a copy of the Enquiry Report was not furnished to the applicant before the Disciplinary Authority passed the order imposing the penalty of removal from service. This position is conceded by the learned counsel for the respondents. That the proceedings are vitiated on the ground of not furnishing a copy of the Enquiry Report to the delinquent official before the order imposing the penalty of removal from service was passed, is concluded by the judgement of the Hon'ble Supreme Court in Union of India & Others V/s. Mohd Ramzan Khan (1990 IV SVLR (L) 179. The Supreme Court observed as follows :-

" Para.18. We make it clear that wherever there has been an Inquiry Officer and he has furnished a report to the disciplinary authority at the conclusion of the inquiry holding the delinquent guilty of all or any of the charges with proposal

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for any particular punishment or not, the delinquent is entitled to a copy of such report and will also be entitled to make a representation against it, if he so desires, and non-furnishing of the report would amount to violation of rules of natural justice and make the final order liable to challenge here-after".

The observations made by the Hon'ble Supreme Court in para 18 of their above judgement make it clear that ^{on} the grounds of equity and natural justice, a delinquent official is entitled to a copy of the enquiry report and is also entitled to make a representation against it and non-furnishing of the report would amount to violation of rules of natural justice and make the final order liable to challenge on this ground.

3. Accordingly, the impugned order of removal is hereby quashed. However, this will not preclude the Disciplinary Authority from revising the proceedings and continuing with it in accordance with law from the stage of supply of the enquiry report. There shall be no order as to costs.

GKrishna
(GOPAL KRISHNA)
MEMBER (Judl.)

K. Kaushal
22-7-91
(KAUSHAL KUMAR)
VICE CHAIRMAN.

Recd CG
Mmmd
26.7.91
Advocate
Recd CG
6/2
26/7/91