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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH : HYDERABAD

O.A. No. 534/PJ
~~T.A. No.~~

DATE OF DECISION 20/12/88

Petitioner

Advocate for the
Petitioner(s)

Versus

Respondent

Advocate for the
Respondent(s)

CORAM

The Hon'ble Mr. B. N. Prasad, V.C.

The Hon'ble Mr. D. Sanyal, Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?
5. Remarks of Vice-Chairman on columns 1,2,4 (To be submitted to Hon'ble Vice-Chairman where he is not on the Bench)

no

no

no

no

6/12/88
BNT
HVC

28/12/88
HVC

(S)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.534/87

Date of the order: 20-12-1989.

BETWEEN

I.Satyanarayana

... APPLICANT

AND

1. Union of India, rep. by the
Divisional Engineer, Telecom.,
Maintenance II, Guntur.
2. Sub-Divisional Officer, Telecom.,
Chilakaluripet, Guntur district.

... RESPONDENTS

Appearance:

- For the applicant : Mr.K.S.R.Anjaneyulu, Advocate
For the Respondents : Mr.E.Madan Mohan Rao, Addl.CGSC.

CORAM:

Mr.
The Hon'ble/B.N.Jayasimha, Vice-Chairman
and

The Hon'ble Mr.D.Surya Rao, Member (Judicial).

(ORDER OF THE BENCH DELIVERED BY THE HON'BLE
MR. D.SURYA RAO, MEMBER (JUDL.)

The applicant herein, a lineman in the Telecom.
Department has filed this Application questioning the
order No.E2/Disc/Corr/ISN/LMT/81 dated 21-11-1985 passed
by the 2nd Respondent imposing upon him punishment of
compulsory retirement from service and the consequential
order No.E1/Disc/ISN/84-85/40 dt. 26-8-1986 passed by
the first Respondent confirming the said order of
compulsory retirement, in appeal. The applicant has
raised various grounds assailing the order of punishment imposed
upon him. One of the grounds raised is that the enquiry

bns

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officer's report was not supplied either before the punishment order was passed by the second respondent or alongwith the order of punishment. It was, however, supplied to him at the appellate stage when the appellate authority had gone into the record and after obtaining his remarks, the appellate order was passed.

2. A counter has been filed on behalf of the Respondents denying the various allegations made by the applicant.

3. Heard the learned counsel for the applicant Mr.K.S.R. Anjaneyulu and Mr. E.Madan Mohan Rao, learned Standing Counsel for the Central Government, on behalf of the Respondents.

4. The short point on which the matter can be disposed of is that it is incumbent upon the disciplinary authority to have furnished the applicant a copy of the Enquiry Officer's report before imposing the punishment upon him. The matter is covered by the full bench decision rendered by the Bombay Bench of the Central Administrative Tribunal in Premnath K.Sharma Vs. Union of India reported in 1988 (6) ATC 904 wherein it was held as follows:

"Even after the amendment of Article 311(2) by the 42nd Amendment, the Constitution guarantees a reasonable opportunity to show cause against the charges levelled against the charged officer during the course of the enquiry. In order to fulfil the constitutional requirement he must be given an opportunity to challenge the enquiry report also. The Enquiry Officer enquires into the charges, the evidence is recorded and the charged officer is permitted to cross-examine the witnesses and challenge the documentary evidence during the course of the enquiry. But the enquiry does not conclude at that stage. The enquiry concludes only after the material is considered by the Disciplinary Authority, which includes the Enquiry Officer's report and findings on charges. The enquiry continues until the matter is reserved for recording a finding on the charges and the penalty that may be imposed. Any finding of the Disciplinary Authority on the basis of the Enquiry Officer's report which is not furnished to the charged officer would, therefore, be without affording a reasonable opportunity in this behalf to the charged officer. It, therefore, follows that furnishing a copy of the enquiry report to the charged officer is obligatory."



(87)

Admittedly, in the instant case, the Enquiry Officer's report has been given to the applicant only after 3-2-86 much after the order of punishment is passed. Following the aforesaid decision in Premnath K. Sharma's case, we hold that the order of punishment No. E2/Disc/Corr/ISN/LMT/81 dated 21-11-85 is quashed. This, however, will not preclude the respondents from further proceeding with the enquiry by enabling the applicant to make his representation against the Enquiry Officer's report and to complete the disciplinary proceedings from that stage. Since, in this case, the applicant has received a copy of the Enquiry Officer's report it would be unnecessary to direct the respondents to once again furnish a copy of the Enquiry Officer's report. If the respondents choose to continue the disciplinary proceedings, they are directed to intimate the applicant accordingly and to give him an opportunity to assail the correctness of the Enquiry Officer's report. They are directed to do so within one month from the date of receipt of this order. On receipt of such notice from the respondents, the applicant is directed to submit his representation against the Enquiry Officer's report within a period of one month thereafter and the disciplinary authority is further directed to dispose of the representation of the applicant within six weeks of the receipt of the same. As observed in the case decided by the Full Bench, nothing said herein would affect the decision of the disciplinary authority and we would hasten to add that this order of the Tribunal is not a direction to necessarily continue the disciplinary proceedings. That is entirely left to the discretion of the disciplinary authority.

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5. The O.A. is disposed of with the above directions.
In the circumstances of the case there will be no order
as to costs.

B.N. Jayasimha
(B.N. JAYASIMHA)
Vice-Chairman

D. Surya Rao
(D. SURYA RAO)
Member (J)

Dated: 20th December, 1989.
Dictated in open court.

S. Venkatesh
DEPUTY REGISTRAR (J).

28/12

TO:

1. The Divisional Engineer, (Union of India), Telecom Maintenance II, Guntur-522 616.
2. The Sub Divisional officer, Telecom, Chilakalaripet, Guntur District-50.
3. One copy to Mr. K.S.R. Anjaneyulu, Advocate, 1-1-365/A, Bakaram, Jawaharnagar, Hyderabad.
4. One copy to Mr. E. Madan Mohan Rao, Addl. CGSC, CAT, Hyd.
5. One spare copy.

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kj.

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