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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

O.A.NO: 650/87

DATE OF ORDER: 27-9-89

C.Madana Mohana Reddy

...Applicant

versus

Union of India, represented by  
The Director of Postal Services,  
A.P.Northern Region, Kurnool,  
Kurnool District.  
and another.

...Respondents

FOR THE APPLICANT :- MR.T.JAYANT, Advocate

FOR THE RESPONDENTS:- MR.J.ASHOK KUMAR, SC FOR POSTAL DEPARTMENT

CORAM:

THE HONOURABLE MR.B.N.JAYA SIMHA : VICE CHAIRMAN  
AND  
THE HONOURABLE MR.D.SURYA RAO : MEMBER(JUDICIAL)

(JUDGMENT OF THE BENCH DELIVERED BY SRI B.N.JAYA SIMHA:  
VICE CHAIRMAN)

contd.,,

...

(Judgment delivered by Shri B.N.JAYASIMHA, HVC)

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1. The applicant herein is an Extra Departmental Branch Post Master, working at Cherukuvaripalle, BO, Chittoor District. He seeks to question the order No.F3/Misc/85-86, dated 20-10-1986, passed by the Senior Superintendent of Post Offices, Chittoor Division - 2nd respondent - removing him from service, as confirmed by the 1st respondent herein vide his order No.RDK/EDA/CTR/CP, dated 21-7-1987. The applicant states that consequent upon the charges having been framed against him, an enquiry under the provisions of the CCS(CCA) Rules was <sup>commenced</sup> against him. Basing ~~on~~ upon the report of the enquiry officer, the 2nd respondent removed him from service. The applicant preferred an appeal dated 10-12-1986 to the 1st respondent raising various grounds. The 1st respondent rejected his appeal confirming the removal order passed by the 2nd respondent. Hence, he filed this application raising various grounds and questioning the enquiry proceedings and the final orders of removal.

2. We have heard the learned counsel for

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the applicant and Shri Ashok Kumar, standing counsel for dept.

3. At the outset, /Shri Jayant, counsel for the applicant takes the ground that the order of removal is vitiated by the fact that the report of the enquiry officer had not been furnished to the applicant by the disciplinary authority before passing the impugned order. Thus, the applicant has not been afforded an opportunity to make a representation on the report of the Enquiry Officer. In support of this contention, he relied on the Full bench decision of the Bombay bench in Premnath Sharma Vs. UOI (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"

To

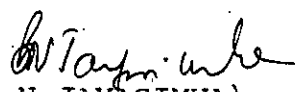
- ① The Director of Postal Services,  
(Union of India), A.P. Southern Region,  
Kurnool, Kurnool District. ✓
- ② Senior Superintendent of Post Offices,  
Chittoor Division, Chittoor - 517001. ✓
- ③ One copy to Mr. T. Jayant, Advocate,  
~~H-16~~ H-16 II, Block 2, Flat 4, Opp. Water Tank,  
Bash Lingampally, Hyderabad - 500,044. ✓
- ④ One copy to Mr. J. Ashok Kumar, SC Bar Deptt. of Posts,  
CAT, Hyderabad. ✓
- ⑤ One spare copy. ✓


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APVC  
Received at 16.50 hrs  
on 28/9/89  
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Following the above decision, we hold that the ~~entire~~ enquiry is vitiated and the order imposing the penalty of removal from service is quashed. This, however, will not preclude the respondents from supplying a copy of the enquiry report to the applicant and give him an opportunity to make his representation and proceeding to complete the disciplinary proceedings from that stage. The application is allowed to the extent indicated above but in the circumstances of the case there will be no order as to costs. If the respondents choose to continue the disciplinary proceedings and complete the same, the manner as to how the period spent in the proceedings should be treated would depend upon the ultimate result. Nothing said herein would affect the decision of the Disciplinary Authority. This order, however, is not a direction to necessarily continue the ~~discipline~~ disciplinary proceeding. That is entirely left to the discretion of the Disciplinary authority.

(Dictated in open court)


  
(B.N. JAYASIMHA)  
VICE CHAIRMAN

  
(D. SURYA RAO)  
MEMBER (JUDL.)

DT. 27th September, 1989

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20/10/89  
DEPUTY REGISTRAR (A)

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