

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: AT HYDERABAD.

O.A.No. 34/87

DATE OF DECISION: 6/3/90.

T.A.No.

Petitioner.

Advocate for the
petitioner(s)

Versus

Respondent.

Advocate for the
Respondent(s)

CORAM:

THE HON'BLE MR. B. N. Sengupta, *Adv.*
THE HON'BLE MR. D. Surya Rao, *Adv.*

1. Whether Reporters of local papers may be allowed to see the Judgment ? *No*
2. To be referred to the Reporter or not ? *No*
3. Whether their Lordships wish to see the fair copy of the Judgment ? *No*
4. Whether it needs to be circulated to other Benches of the Tribunals ? *No*
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)

b/n
(Ans)

Ans
(Ans)

(116)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

O.A.NO. 34 of 1987

Date of Order: 06/03/1990

B.Veera Swamy ...Applicant

Versus

Union of India, represented
by the General Manager, South
Central Railway, Secunderabad,
and others ...Respondents

For Applicant: MR.K.S.R.ANJANEYULU: Advocate

For Respondents: Mr.N.R.Devaraj, SC for Railways.

C O R A M:

HON'BLE SHRI B.N.JAYASIMHA: VICE CHAIRMAN

HON'BLE SHRI D.SURYA RAO: MEMBER(JUDICIAL)

(Judgment delivered by Hon'ble Shri D.Surya Rao, Member(Judl.))

1. The Applicant herein is the Railway Employee
who worked as Cashier, in the office of the Sr.Divisional
Accounts Officer, South Central Railway, Vijayawada. He
has filed this application questioning the order No.A/AD/
BZA/DAR/BV/82, dated 21-7-1986 passed by the 2nd respondent
dismissing the applicant from service and confirmed by the
1st respondent in his order No.A/CP/32/4, dated 21/28-11-86.

2. We have heard Shri K.S.R.Anjaneyulu, learned counsel
for the applicant and Shri N.R.Devaraj, Standing Counsel for
Railways.

3. Among various grounds raised, one of the contentions
is that the applicant was not given a copy of the Enquiry

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Officer's Report before the disciplinary authority passed the impugned orders of dismissal dated 21-7-86. It is thereby contended that the principles of natural justice have been violated and reasonable opportunity was not afforded to the applicant. Shri Anjaneyulu relies upon the decision of the Full Bench in Premnath K.Sharma Vs. ^{of India} Union ₁₉₈₈ 6 ATC 904, in support of his contention.

4. We have considered these submissions. In Premnath K.Sharma's case cited above, the Bombay Bench of the Tribunal 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 penal 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"

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To:

1. The General Manager, south central railway, Sec'bad.
2. The Financial Advisor and Chief Accounts officer, south central railway, Sec'bad.
3. The Senior Divisional Accounts officer, south central railway, Vijayawada.
4. The Senior Accounts officer, construction, south central Railway, Vijayawada.
5. One copy to Mr.K.S.R.Anjaneyulu,Advocate, 1-1-365/A, Jawaharnagar,Bakaram,Hyderabad.
6. One copy to Mr.N.R.Devaraj, SC for Rlys.,CAT,Hyderabad
7. One spare copy.

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kj.

*Ans
for
Q23/100*

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Applying the above decision, we hold that the enquiry is vitiated and the order imposing the penalty of dismissal dated 21-7-1986 passed by the 2nd respondent and confirmed by the 1st respondent in his order dated 21/28-11-1986 are 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 raising all the grounds which he has urged in this application, and proceeding to complete the disciplinary proceedings from that stage. 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. At the same time, we 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.

5. In the result, the application is allowed to the extent indicated above. No costs.

(Dictated in open court)

B.N.Jayashimha
(B.N.JAYASIMHA)

VICE CHAIRMAN

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

DT. 6th March, 1990

DR Dolly
1413190
Tm DEPUTY REGISTRAR (J)

SQH*

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