

105

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

O.A.No. 578/89

T.A.No.

DATE OF DECISION: 25th April, 1990

Sri Y.V. Achuta Rao,

Petitioner.

Sri T. Jayant,

Advocate for the
petitioner(s)

Versus

Union of India

Respondent.

Sri Naram Bhaskara Rao,

Advocate for the
Respondent(s)

CORAM:

THE HON'BLE MR. J. NARASIMHA MURTHY, MEMBER(J)

THE HON'BLE MR. R. BALASUBRAMANIAN, MEMBER(A)

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 Tribunals ?
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)

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HJNM
M(J)

HRAS
M(A)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD
BENCH AT : HYDERABAD

O.A. No. 578/89

Date of Order: 25.4.1990

(16)

BETWEEN

1. Shri Y.V. Achuta Rao,
Store Keeper Gr.II,
O/O the CBE(E.1)Director General
(Naval Project) Visakhapatnam. Applicant

Versus

1. Union of India represented by
The Secretary, Ministry of Defence,
New Delhi.

2. Engineer-in-chief Army Hqrs.,
DHQ P.O., New Delhi.

3. Chief Engineer Hqrs.,
Southern Command,
Pune.

4. Director General(Naval Project)
Visakhapatnam. Respondents

APPEARANCE:

For Applicant : Shri T. Jayant, Advocate

For Respondents : Shri Naram Bhaskara Rao,
Standing Counsel for Respondents.

CORAM:

HON'BLE SRI J. NARASIMHA MURTHY, MEMBER (J)

HON'BLE SRI R. BALA SUBRAMANIAN, MEMBER (A)

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(Judgement of the Bench delivered by Shri J. Narasimha Murthy,
Hon'ble Member (J))

1. The brief facts of the case are as follows:

The petitioner was appointed as a Storeman u.e.f. 11.5.1965 in MES department and promoted as Store Keeper Grade II. Thereafter he was transferred to the Office of

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the Director General (Naval Project), Visakhapatnam i.e., 4th respondent herein. The 4th respondent herein by an order dt. 21.3.86 placed him under suspension on a plea of contemplation of disciplinary proceedings against him, and charges were framed against him. The applicant gave his representation dt. 20.10.86 requesting the 4th respondent herein to transfer him to his parent MES department along with the disciplinary case as it has been done in the cases of certain individuals, to have a clean and fair inquiry. The 4th respondent herein by his memo dt. 27.10.86 informed him that he is empowered to proceed with the disciplinary proceedings till certain stage and thus rejected his request for a transfer to his parent department. Thereafter an enquiry was conducted. The applicant received the Dismissal Order dated 11.6.88. Apart from the other merits the petitioner raised that the enquiry report and the said findings of the third respondent herein were relied upon behind his back without furnishing copies of the same and without hearing him thereon before passing the dismissal order as held by the full bench of Bombay Central Administrative Tribunal in Premnath K. Sharma Vs. Union of India 1988, ⁽⁶⁾ ATC 904. So the action of the respondents is not in accordance with the law and the principles of natural justice were violated by the respondents. Basing on these grounds the petition has to be allowed.

2. The respondents have filed a counter with the following facts.

The applicant on his permanent transfer from the Office of the Garrison Engineer, Visakhapatnam on 24.7.76 had been serving as Store Keeper Grade II in various sections under the DGNP(V). While he was working as such, certain discrepancies in the steel items in the stores held under his charge were reported in October, 1985. A Court of Enquiry was ordered to investigate the matter. The preliminary investigations revealed a prima facie case against the

applicant. He was therefore placed under suspension w.e.f., 21.3.86. An enquiry was conducted and in the findings of the enquiry officer it was found that the applicant is mainly responsible for the loss. The memorandum of charges served on him on 28.8.86 and the enquiry was conducted. The applicant was found guilty of lack of devotion to duty and conduct unbecoming of a Government servant. But the disciplinary authority has come to the conclusion that there is every reason to believe that the applicant had misappropriated the stores. Thus all charges levelled against him have conclusively been established. The dismissal order was served on the applicant on 4.8.88. The petitioner was given every opportunity during the period of conducting the enquiry to defend himself and the petition is liable to be dismissed with costs.

3. In this case apart from the other points the petitioner relied upon Premnath K. Sharma Vs. Union of India case because the enquiry report was not furnished to him earlier and he was refused the personal hearing in this matter. So these points invite the judgement of 1988 (6) ATC 904. So basing on that judgement the petitioner stated that the enquiry report was not given to him before passing the dismissal order. Therefore, non furnishing of the Enquiry Officer's report amounts to denial of reasonable opportunity as set out by the Full Bench of the Tribunal in 1988 (6) ATC Page 904 (Premnath K. Sharma Vs. Union of India and others) and on the said ground the O.A. is allowed and impugned order dt. 11.6.88 passed by the third respondent herein and as confirmed by the second respondent herein by the appellate order dt. 30.1.89 as


(Contd....)

communicated to him by the 4th respondent herein vide (101) his letter dt.22.2.89 is quashed. This order, 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 proceedings should be treated would depend upon the ultimate result.

MS
(J. NARASIMHA MURTHY)
Member (Jud1)

R. Balasubramanian
(R. BALASUBRAMANIAN)
Member (Admn.)

Dated: 25 April, 1990

Deputy 31/4/90.
For DEPUTY REGISTRAR (J)

TO:

1. The Secretary, (Union of India) Ministry of Defence
New Delhi.
2. The Engineer-in-Chief, Army H.Qrs., DHQ. P.O. New Delhi.
3. The Chief Engineer H.Qrs., southern command, Pune.
4. The Director General (Naval project) Visakhapatnam.
5. One copy to Mr.T.Jayant, Advocate, 17-35B, Srinagar colony, Gaddiannaram, Dilsukhnagar, P&T Colony P.O. Hyderabad-660.
6. One copy to Mr.Naram Bhaskara Rao, Addl.CGSC, CAT, Hyderabad.
- Mvs
7. One spare copy.

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31/5/80 CHECKED BY

TYPED BY:

COMPARED BY :

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH:HYD.

HON'BLE MR.B.N.JAYASIMHA: V.C.

HON'BLE MR.D.SURYA RAO: MEMBER:(JUDL)

A N D

HON'BLE MR.J.NARASIMHA MURTHY(M)(J)

A N D

HON'BLE MR.R.BALASUBRAMANIAN:(M)(A)

DATED: *25/4/80*

ORDER/JUDGMENT: *25*

M.A./R.A./C.A./No. > in

T.A.No. W.P.No. —

O.A.No. *578/89*.

Admitted and Interim directions issued.

Allowed.

Dismissed for default.

Dismissed.

Disposed of with direction.

M.A. ordered.

No order as to costs.

Sent to Xerox on:

