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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: AT
HYDERABAD

TRANSFERRED/ORIGINAL-APPLICATION NO. 473 of 1990

DATE OF ORDER: 13th July, 1990

BETWEEN:

Mr. K. Sreramulu

APPLICANT(S)

Vs.

The Secretary, Ministry of Communications,
New Delhi and 2^o others

RESPONDENT(S)

FOR APPLICANT(S): Mr. T. Jayant, Advocate

FOR RESPONDENT(S): Mr. Naram Bhaskar Rao, Addl. CGSC

CORAM: Hon'ble Shri B.N.Jayasimha, Vice Chairman
Hon'ble Shri D.Surya Rao, Member (Judl.)

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 Bench 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).

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HBNC

HDSR

JUDGMENT OF THE DIVISION BENCH DELIVERED BY THE HON'BLE
SHRI D.SURYA RAO, MEMBER (JUDL.)

The applicant herein was working as Telephone Operator in the Telecom District, West Godavari, Eluru, Andhra Pradesh. In this application, he seeks to question the order No.E/Disc/KSR/88-89 dated 25.8.1988 passed by the 3rd respondent dismissing him from service by way of punishment under C.C.S.(C.C.A.) Rules. He also seeks to question the order No.TAE/ST/Disc/01/2-6/3 dated 12.1.90 passed by the 2nd respondent dismissing the appeal preferred by the applicant against the order dated 25.8.1988. The orders of dismissal were passed after framing the charges and holding an inquiry under C.C.S.(C.C.A.) Rules. Apart from the other contentions raised, the main contention now raised is that the 3rd respondent, the disciplinary authority, passed the orders in violation of principles of natural justice by not furnishing a copy of the Inquiry Officer's report before passing the order of dismissal. It is contended that the matter is covered by the Full Bench decision of the New Bombay Bench of the Tribunal in "Premnath K.Sharma Vs. Union of India & others (1988(6) ATC 904)".

2. We have heard the learned counsel for the applicant, Shri T.Jayant and the learned counsel for the respondents, Shri Naram Bhaskar Rao, Addl. CGSC. The matter is covered by the Full Bench decision of the New Bombay Bench of the Central Administrative Tribunal ~~repeated~~ in "Premnath K. Sharma Vs. Union of India & others (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. "

In view of the above said decision, we hold the enquiry in the instant case is vitiated and the order imposing the penalty of dismissal from service must be quashed inasmuch as the Inquiry Officer's report has not been furnished to the applicant before passing the order of dismissal. 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 proceedings to complete the disciplinary proceedings from that stage. The application is allowed to the extent indicated above but in the circumstances we make 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. At the same time, we may 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.

3. Since we are allowing the O.A. on the ground that the matter is covered by the Full Bench decision in 'Premnath

K.Sharma's case, we are not taking up the other contentions raised. It is open to the applicant to raise these contentions before the Disciplinary Authority if further action is sought to be taken against him.

(Dictated in the open Court)

B.N.Jayashimha

(B.N.JAYASIMHA)
Vice Chairman

D.Surya Rao

(D.SURYA RAO)
Member(Judl.)

Dated: 13th July, 1990.

7/7/90
S/o DEPUTY REGISTRAR(JUDL)

To

1. The Secretary, Union of India, Ministry of Communications, New Delhi - 1.
2. The Deputy General Manager, Telecom District, West Godavari, Eluru, W.G.Dist.
3. The Divisional Engineer, Telecom, Eluru-534 080 W.G.Dist.
4. One copy to Mr.T.Jayant, Advocate, 17-35 B, Srinagar Colony, Gaddiannaram, Dikshuknagar, P&T Colony, P.O., Hyderabad. 660
5. One copy to Mr.N.Baskara Rao, Addl.CGSC.
6. One spare copy.

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COMPARED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

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

AND

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

AND

THE HON'BLE MR.D.NARASIMHAMURTHY:M(J)

AND

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

DATE : 13/7/96

JRDER → JUDGMENT

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

T.A. No.

W.P. No.

O.A. No. 473/96

Admitted and Interim directions Issued.

Allowed.

Dismissed for default.

Dismissed as withdrawn.

Dismissed.

Disposed of with direction.

M.A. ordered/Rejected.

No order as to costs.

