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# Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 550/90.

Date of Decision : 10.2.92.

T.A.No--

I.Rubin

Petitioner.

Shri G.V.Subba Rao

Advocate for the  
petitioner (s)

Versus

The Asst. Mechanical Engineer(Loco), S.C.Rly.. Respondent.  
Rajahmundry & 2 others

Shri V.Bhimanna, SC for Railways

Advocate for the  
Respondent (s)

**CORAM :**

THE HON'BLE MR. R.Balasubramanian : Member(A)

THE HON'BLE MR. C.J.Roy : Member(J)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
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)

HRBS  
M(A).

HCJR  
M(J).

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD.

O.A.No.550/90.

Date of Judgment: 10-2-92.

I.Rubin

.. Applicant

Vs.

1. The Asst. Mechanical  
Engineer, S.C.Rly.,  
Rajahmundry.

2. The Sr. Divl. Mechanical  
Engineer, S.C.Rly.,  
Vijaywada.

3. The Divl. Rly. Manager,  
S.C.Rly.,  
Vijaywada.

.. Respondents

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Counsel for the Applicant : Shri G.V.Subba Rao

Counsel for the Respondents: Shri V.Bhimanna, SC for Rlys.

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CORAM:

Hon'ble Shri R.Balasubramanian : Member(A)

Hon'ble Shri C.J.Roy : Member(J)

I Judgment as per Hon'ble Shri R.Balasubramanian, Member(A)

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This application has been filed by Shri I.Rubin under section 19 of the Administrative Tribunals Act, 1985 against the Asst. Mechanical Engineer, S.C.Rly., Rajahmundry & 2 others, praying that the punishment inflicted on him be quashed.

2. While working as Engine Cleaner during the years 1984 and 1986 the applicant reported sick due to pain in the stomach for which he is stated to have undergone treatment at Madras and Kavali. While so, a major penalty charge for unauthorised absence was served on him. An enquiry was conducted and based on the enquiry report a punishment order dated 25.6.87 was passed removing him from service.

.....2

To

1. The Asst. Mechanical Engineer,  
S.C.Rly, Rajahmundry.
2. The Sr.Divl.Mechanical Engineer,  
S.C.Rly, Vijayawada.
3. The Divl.Rly.Manager, S.C.Rly, Vijayawada.
4. One copy to Mr.G.V.Subba Rao, Advocate, CAT.Hyd.
5. One copy to Mr.v.Bhimanna, SC for Rlys, CAT.Hyd.Bench.
6. One spare copy.

pvm.

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It is against this that he preferred an appeal which was rejected. Hence, the applicant has approached this Tribunal with this O.A.

3. The respondents have filed a counter affidavit and oppose the application.

4. We have examined the case and heard the learned counsels for the rival sides. The learned counsel for the applicant has pointed out that a copy of the enquiry report was not given to the applicant before passing the punishment order. This is seen to be so from the punishment order dated 25.6.87 alongwith which only a copy of the enquiry report was enclosed. This straightaway attracts the law laid down by the Hon'ble Supreme Court in the case of Union of India & others Vs. Mohd. Ramzan Khan (AIR 1991 SC 476). In this case also, the principles of natural justice on which emphasis had been laid down by the Hon'ble Supreme Court had been violated. Under these circumstances, we quash the punishment order dated 25.6.87 and the subsequent appellate order. 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 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 hasten to add, that this order of the Tribunal is not a direction to necessarily continue the disciplinary proceeding. That is entirely left to the discretion of the Disciplinary Authority.

R.Balasubramanian

( R.Balasubramanian )  
Member(A).

( C.J.Roy )  
Member(J).

Dated 10<sup>th</sup> February, 1992.

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Registar (SD)