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Central Administrative Tribunal
HYDERABAD BENCH : AT HYDERABAD

O.A. No. 1144 of 1991

Date of Decision : 3.2.1992

~~Ex-A-10x~~

Mr. Y. Rama Krishna Petitioner.

Mr. J.V. Lakshmana Rao Advocate for the
petitioner (s)

Versus

Union of India and 2 others Respondent.

Mr. M. Jagan Mohan Reddy Advocate for the
Respondent (s)

CORAM :

THE HON'BLE MR. R. Balasubramanian, Member (Admn.)

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

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)

H
HRBS
M(A)

H
HCJR
M(J)

JUDGMENT OF THE DIVISION BENCH DELIVERED BY THE HON'BLE
SHRI R.BALASUBRAMANIAN, MEMBER (ADMINISTRATION)

This application is filed by Mr.Y.Rama Krishna under Section 19 of the Administrative Tribunals Act, 1985 against the Director General, Telecommunications, New Delhi and two others seeking a direction to quash the impugned orders of the disciplinary authority vide Memo No.E5/8/2/87-88/155, dated 16.01.1988 and the order No.1-26/89-Vig.II, dated 5.12.1990 of the revisioning authority.

2. We heard the learned counsel for the applicant Mr. T.V.V.S.Murthy appearing for Mr. J.V.Lakshmana Rao and the learned Additional Standing Counsel for the Respondents, Shri M.Jaganmohan Reddy.

3. At the admission stage itself, it was noticed that a copy of the inquiry report has not been furnished to the applicant before imposing the punishment order of reduction in pay. This attracts the law laid down by the Hon'ble Supreme Court of India, in the case of "Union of India and others Vs. Ramzan Khan" (1990(4) SC 456 Judgments Today), wherein at para 15 and 18, it is held as under:-

"Para-15: Deletion of the second opportunity from the scheme of Article 311(2) of the Constitution has nothing to do with providing of a copy of the

report to the delinquent in the matter of making his representation. Eventhough the second stage of the inquiry in Article 311 (2) has been abolished by amendment, the Delinquent is still entitled to represent against the conclusion of the Inquiry Officer holding that the charges or some of the charges are established and holding the delinquent guilty of such charges. For doing away with the effect of the enquiry report or to meet the recommendations of the Inquiry Officer in the matter of imposition of punishment, furnishing a copy of the report becomes necessary and to have the proceeding completed by using some material behind the back of the delinquent is a position not countenanced by fair procedure. While by law, application of natural justice could be totally ruled out or truncated nothing has been done here which could be taken as keeping natural justice out of the proceedings and the series of pronouncements of this Court making rules of natural justice applicable to such an inquiry are not affected by the 42nd amendment. We, therefore, come to the conclusion that supply of a copy of the inquiry report along with recommendations, if any, in the matter of proposed punishment to be inflicted would be within the rules of natural justice and the delinquent would, therefore, be entitled to the supply of a copy thereof. The Forty Second Amendment has not brought about any change in this position.

In the same Ruling at para-18 their lordships observed that-

"Para-18: We make it clear that wherever there has been an Inquiry Officer and he has furnished a report to the disciplinary authority at the conclusion of the inquiry

contd....

holding the delinquent guilty of all or any of the charges with proposal for any particular punishment or not, the delinquent is entitled to a copy of such report and will also be entitled to make a representation against it, if he so desires, and non-furnishing of the report would amount to violation of rules of natural justice and make the final order liable to challenge hereafter."

4. Based on the above principles of rulings, this Tribunal in a case filed by one Shri K.Nagarajan in OA 301/88 against the Divisional Commercial Superintendent, South Central Railway, Vijayawada and others, allowed the application by Judgment dated 8.3.1991. On this a Review was also filed in R.P.No.66 of 1991 but the said Review petition was also dismissed on 24.12.1991.

5. It is not in dispute that the inquiry report was not furnished to the applicant before imposing the punishment order of reduction in pay. This action amounts to violation of rules of natural justice. Therefore, applying the aforesaid principles in the rulings, it would follow that the impugned order vide Memo No.E5/8/2/87-88/155, dated 16.1.1988 passed by the disciplinary authority and the order No.1-26/89-Vig.II, dated 5.12.1990 passed by the revisioning authority, are illegal and contrary to the provisions of natural justice and accordingly the said impugned orders are quashed.

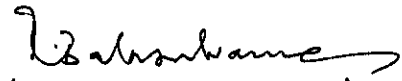
6. This order, passed by us, however, will not preclude the respondents (disciplinary authority) from proceeding

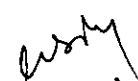
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with the enquiry from the stage of receipt of the enquiry officer's report. Since the enquiry Officer's report has already been made available to the applicant subsequent to imposing the punishment order of reduction in pay, the question of furnishing it once again does not arise. If the disciplinary authority proposes to continue with the enquiry, he shall give reasonable opportunity to the applicant to represent against the ~~enquiry~~ enquiry report, and only thereafter proceed with the enquiry, and complete the same. 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.

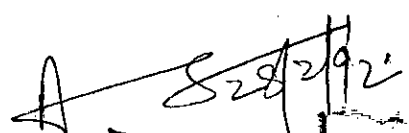
7. With the above directions, the application is ^{as to} disposed of at the admission stage itself. No order costs.


(Dictated in the open Court).


(R. BALASUBRAMANIAN)
Member (Admn.)


(C. J. ROY)
Member (Judicial)

Dated: 3rd February, 1992.


Deputy Registrar

SP  28/2/92

To

1. The Director General, Union of India,
Telecommunications, New Delhi-1.
2. The Chief Telecom District Engineer, Nalgonda.
3. The Sub Divisional Officer, Telecom, Nalgonda.
4. One copy to Mr.J.V.Lakshman Rao, Advocate
Flat No 301, Balaji Towers, New Bakaram, Hyderabad.
5. One copy to Mr.M.Jaganmohan Reddy, Addl.CGSC.CAT.Hyd.
6. One spare copy.

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