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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI-5

O.A. 51 of 1997

Date of decision 17.8.98

Sri Akhil Chandra Roy,

PETITIONER(S)

S/Shri J.L.Sarkar, M.Chanda.

ADVOCATE FOR THE
PETITIONER(S)

VERSUS

Union of India & Ors.

RESPONDENT(S)

Sri S.Ali, Sr.C.G.S.C.


ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE MR. JUSTICE D.N.BARUAH, VICE-CHAIRMAN.

THE HON'BLE SHRI G.L.SANGLYINE, ADMINISTRATIVE MEMBER.

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 Judgement?
4. Whether the Judgement is to be circulated to the other Benches?

Judgement delivered by Hon'ble Vice-Chairman.



CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 51 of 1997.

Date of decision : This the 17th day of August, 1998.

Hon'ble Justice Shri D.N.Baruah, Vice-Chairman

Hon'ble Shri G.L.Sanglyine, Administrative Member.

Shri Akhil Chandra Roy,
Sr. Telecom. Supervisor (Phones),
Fault Control,
Office of the Sub-Divisional Engineer,
Fault Control, Telephone Exchange,
Guwahati-781001 Applicant

By Advocate Shri J.L.Sarkar.

-versus-

1. Union of India,
represented by the Secretary to the
Govt. of India, Ministry of
Communication, New Delhi.
2. Telecom District Manager,
Kamrup Telecom District,
Guwahati-781007.
3. Divisional Engineer(Phones) (Internal),
Telephone Exchange,
Guwahati-781001
4. Shri D.K.Nath,
Sr. SDE, CTTC,
Guwahati-781009 Respondents


By Advocate Shri S.Ali, Sr. C.G.S.C.

O R D E R

BARUAH J. V.C.

This application has been filed by the
applicant challenging the impugned order Annexure-18
dated 8.2.96 by which the Disciplinary Authority
imposed penalty and also Annexure-23 Appellate

Contd.....



Order dated 27.12.96, dismissing the appeal. The applicant has challenged the said order on the ground that the entire Disiplinary Proceeding was vitiated by error of procedure of law.

2. We have heard Mr. J.L.Sarkar, learned counsel appearing on behalf of the applicant and also Mr. S.Ali, learned Sr. C.G.S.C. appearing on behalf of the respondents.

3. The first submission of Mr. Sarkar is that after the completion of the enquiry, enquiry report was not served on the applicant. This, according Mr. Sarkar is contrary to the settled law. As per decision of the Apex Court in the case of Union of India Vs. Mohd. Ramzan Khan (1991) 1 SCC 588 wherever there has been an enquiry in a disciplinary proceeding, on completion of enquiry, the report of the enquiry officer shall be furnished to the delinquent employee. Non furnishing of the report would amount to violation of rules of natural justice. This view has also been reiterated by the Apex Court in the case of Managing Director, ECIL, Hyderabad and Ors. Vs. B. Karunakar and Ors (1993) 4 SCC 727. Non supply of the copy of the enquiry report has been stated in 4.20 of the Original Application. The relevant portion of paragraph 4.20 of the Original Application is reproduced below :

"While passing the said order taking into account the report of the inquiring authority, i.e. the D.E. Phones did not even send a copy of the inquiry report to the applicant




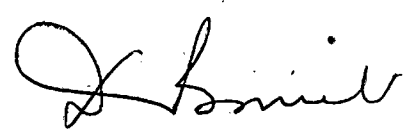
informing him to make a representation against the same.....".

4. No written statement has been filed in spite of granting several adjournments. Therefore the averment of the applicant remains uncontroverted. Records have also not been produced. Therefore, we are constrained to hold that no copy of the enquiry report had been furnished to the applicant.

5. In view of the above, the disciplinary proceeding was bad in law and no disciplinary action can be taken against the delinquent employee on the basis of such enquiry and the appellate authority also did not consider this aspect of the matter. Accordingly we set aside the impugned Annexure-18 order dated 8.2.96 passed by the disciplinary authority and Annexure-23 dated 27.12.96 passed by the appellate authority.

6. The Original Application is disposed of. Considering the facts and circumstances of the case, we, however, make no order as to costs.


(G.L. SANGLYINE)
Administrative Member


(D.N. BARUAH)
Vice-Chairman