
(2005) 04 MAD CK 0162
In the Madras High Court
Case No : W.A. No. 853 of 2005

Chennai Metropolitan Water Supply and Sewerage Board and
Others

APPELLANT

Vs

P. Palanivelan

RESPONDENT

Date of Decision : 25-04-2005

Acts Referred:

Citation : (2005) 3 CTC 656 : (2006) 109 FLR 807

Hon'ble Judges : Markandey Katju, C.J.; F.M. Ibrahim Kalifulla, J

Bench : Division Bench

Advocate : B. Shanthakumar, for the Appellant; T.R. Rajagopalan for M. Suresh Kumar, for the Respondent

Judgement

Markandey Katju, C.J.—This writ appeal has been filed against the impugned order dated 4.1.2005 passed by the learned single Judge.

2. We have heard the learned counsel for the parties and perused the records.

3. The facts of the case are that the respondent was an employee of the appellant Board and he was charge-sheeted on several charges. In the departmental enquiry, the enquiry officer found him innocent. The disciplinary authority disagreed with the finding of the enquiry officer and without giving an opportunity of hearing to the respondent/petitioner imposed the punishment of stoppage of increment.

4. The learned single Judge has, in our opinion, rightly held that opportunity of hearing should have been given to the employee concerned. No doubt even if the enquiry officer finds an employee to be innocent, it is open to the disciplinary authority to disagree with such finding but in that case, the disciplinary authority must give an opportunity of hearing to the delinquent and record his reasons for disagreeing with the findings of the enquiry officer. In *Punjab National Bank and Others Vs. Sh. Kunj Behari Misra*, the Supreme Court observed as follows:

"As a result thereof, whenever the disciplinary authority disagrees with the enquiry authority on any article of charge, then before it records its own findings on such charge, it must record its tentative reasons for such disagreement and give to the delinquent officer an opportunity to represent before it records its findings. The report of the enquiry officer containing its findings will have to be conveyed and the delinquent officer will have an opportunity to persuade the disciplinary authority to accept the favourable conclusion of the enquiry officer. The principles of natural justice, as we have already observed, require the authority which has to take a final decision and can impose a penalty, to give an opportunity to the officer charged of misconduct to file a representation before the disciplinary authority records its findings on the charges framed against the officer."

The aforesaid decision has been followed by the Supreme Court in *State Bank of India v. K.P. Narayanan Kutty* 2003 (1) Sup 778.

5. Following the aforesaid decisions of the Supreme Court, this writ appeal is dismissed. However, it is open to the disciplinary authority now to issue a show cause notice to the employee concerned, giving him the tentative reasons for disagreement with the enquiry officer's findings and after considering the reply of the employee to the show cause notice, pass fresh orders recording his reasons. We make it clear that no fresh enquiry need be held by the disciplinary authority but the report of the enquiry officer must be conveyed to the employee concerned with the tentative reasons of the disciplinary authority for disagreement with the findings of the enquiry officer. The disciplinary authority need not give opportunity to the employee to lead fresh evidence or to examine and cross-examine witness but his final order must show that he has considered the explanation of the employee filed in reply to his show cause notice and other relevant material. Connected W.A.M.P. No. 1610 of 2005 is closed.