

(1992) 02 CAL CK 0006

Calcutta High Court

Case No: Matter No. 3096 of 1989

Sisir Kumar Banerjee

APPELLANT

Vs

Central Inland Water Transport
Corporation Ltd. and Others

RESPONDENT

Date of Decision: Feb. 20, 1992

Acts Referred:

- Constitution of India, 1950 - Article 226

Citation: 96 CWN 638

Hon'ble Judges: Kalyanmoy Ganguli, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Kalyanmoy Ganguli, J.

At all material times the petitioner was an employee of the respondent no. 1. In the instant application under Article 226 of the Constitution of India, the only point urged by the petitioner was that before passing the impugned order of dismissal no copy of the enquiry report was furnished to the petitioner and as such the said order amounts to a violation of the principles of natural justice and on that ground alone the order of dismissal should be quashed. No other point was urged at the hearing of the matter. It is needless to add that the petitioner preferred an appeal against the order of dismissal which was passed on December 3, 1988 and the appeal was also dismissed.

2. Both sides very strongly relied on the case of [Union of India and others Vs. Mohd. Ramzan Khan](#), In the said judgment the Hon"ble Supreme Court very firmly laid down the law that whenever there has been an Enquiry Officer in a disciplinary proceeding and the Enquiry Officer has furnished a report to the disciplinary authority at the conclusion of the enquiry, 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".

3. The declaration of the Hon"ble Supreme Court is emphatic and unambiguous but in para 17 of the said judgment the Hon"ble Supreme Court has come to the conclusion that there were conflicting views of both High Courts and the Hon"ble Supreme Court it self and in the instant judgment Their Lordships were laying down the law for future guidance of the courts as would appear from the word "hereafter" occurring in para 18 of the said judgment. In para 17 of the judgment Their Lordships hold with equal emphasis that the law said down by the Hon"ble Court in this judgment will only have prospective application and no punishment imposed shall be open to challenge on the ground of non supply of enquiry report to the delinquent officer.

4. In the instant case the impugned order of dismissal was passed on December 3, 1988 and the judgment under reference was delivered on November 20, 1990. If this judgment is to have only prospective application then the order of dismissal already passed as far back as on December 3, 1988 is not open to challenge on the ground of non supply of the enquiry report.

5. As on other point was urged on behalf of the petitioner this application has to fail. In the circumstances, this application fails and is dismissed. Interim orders if any stand vacated. Regard being had to the circumstances of the case there will be no order as to costs.