

J.L. JAIN
v.
UNION OF INDIA AND ORS.

FEBRUARY 15, 1996

[K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

Service Law :

Departmental Inquiry—Re-opening of—One time opportunity to be given to the employee—If the employee fails to participate in the enquiry and to conduct his case, he would forfeit his defence—Inquiry Officer to make available all witnesses to be examined in proof of the charge—Open to the employee to cross-examine them—Opportunity for defence evidence to be given—Thereafter inquiry officer would be free to proceed according to rules and take appropriate action.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3636 of 1996.

From the Judgment and Order dated 26.10.94 of the Central Administrative Tribunal, New Delhi in O.A. No. 1508 of 1992.

Anis Suhrawardy, Ms. Shomana Anis and Z.A. Khan for the appellant.

A.D.N. Rao and Arvind Kr. Sharma for the Respondents.

The following order of the Court was delivered :

Leave granted.

We have heard the counsel on both sides.

The notice issued in this case itself indicates why the inquiry should not be reopened; the inquiry officer should not give another opportunity to the appellant to participate in the inquiry. It was also stated that if the respondent is agreeable to reopen the matter, it would be confined to only one time opportunity to appellant and unless the appellant participates in the inquiry and conducts his case, he would forfeit his defence. In view of the notice and in view of the statement of the respondents in the counter-

- A affidavit that they are agreeable to give an opportunity, the impugned order is set aside and opportunity is directed to be given to the appellant to participate in the inquiry. The inquiry officer is directed to issue notice to the appellant by registered post with acknowledgment due giving 30 days' time fixing a date on which date the appellant should appear and participate in the inquiry. The inquiry officer is directed to make available all the witnesses sought to be examined in proof of the charge on that date and it would be open to the appellant to cross-examine those witnesses. If the appellant intends to adduce any defence evidence, inquiry officer is directed to give another date to the appellant to adduce the same on the adjourned day; the inquiry would be completed after examining those witnesses. Thereafter, the inquiry officer would be free to proceed according to rules and take appropriate action.

The appeal is accordingly allowed. No costs.

G.N.

Appeal allowed.