

PETITIONER:
STATE OF PUNJAB

Vs.

RESPONDENT:
BHAGAT RAM

DATE OF JUDGMENT 09/10/1974

BENCH:
RAY, A.N. (CJ)
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RAY, A.N. (CJ)
MATHEW, KUTTYIL KURIEN
ALAGIRISWAMI, A.

CITATION:
1974 AIR 2335 1975 SCR (2) 370
1975 SCC (1) 155
CITATOR INFO :
R 1986 SC2118 (12)
RF 1988 SC 117 (3,7)

ACT:
Constitution of India, 1950-Art. 311 -Supply of synopsis of evidence of witnesses examined during investigation- Whether satisfies the requirement of reasonable opportunity.

HEADNOTE:
In a suit for declaration that his dismissal was illegal the respondent contended that copies of statements of witnesses to be examined at the departmental enquiry were not supplied to him in spite of his request. The trial court held that no reasonable opportunity was given to the respondent. The High Court up held the decision of the trial court. On appeal to this Court it was contended by the appellant that a synopsis of the evidence was adequate to acquaint the respondent to cross-examine the witnesses at the inquiry. Dismissing the appeal,
HELD : It is unjust and unfair to deny the Government servant copier. of statements of witnesses examined during investigation and produced at the inquiry in support of the charges leveled against him. A synopsis does not satisfy the requirements of giving the Government servant a reasonable opportunity of showing cause against the action proposed to be taken. [371 D-E]

JUDGMENT:
CIVIL APPELLATE JURISDICTION : Civil Appeal No. 4 of 1970.
Appeal from the Judgment & Decree dated the 14th November, 1968 of the Punjab & Haryana High Court in R.F.A. Nos. 154 & 186 of 1964.
O. P. Sharma, for the appellant.
Hardayal Hardey and P. P. Juneja, for the respondent.
The Judgment of the Court was delivered by
RAY, C.J. This appeal by certificate turns on the question as to whether the State gave the respondent a reasonable opportunity as contemplated by Article 311 of the Constitution.

The respondent was a Sub Divisional Officer. The State ordered a departmental enquiry against the respondent. The respondent filed a suit for a declaration that the dismissal of the respondent was illegal. One of the grounds challenging the order of dismissal was that copies of statements recorded by the police in the course of investigation of the witnesses proposed to be examined at the departmental enquiry were not supplied by the State to the respondent in spite of the request in that behalf.

The trial Court found that copies of the statements of the witnesses as recorded by the Vigilance Department during the preliminary enquiry were not supplied to the respondent but only the synopsis was given. The trial Court, therefore, held that no reasonable opportunity was given to the respondent.

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The High Court upheld the decision.

The State contended that the respondent was not entitled to get copies of statements. The reasoning of the State was that the respondent was given the opportunity to cross examine the witnesses and during the cross-examination the respondent would have the opportunity of confronting the witnesses with the statements. It is contended that the synopsis was adequate to acquaint the respondent with the gist of the evidence.

The meaning of a reasonable opportunity of showing cause against the action proposed to be taken is that the Government servant is afforded a reasonable opportunity to defend himself against charges on which inquiry is held. The Government servant should be given an opportunity to deny his guilt and establish his innocence. He can do so when he is told what the charges against him are. 'He can do so by cross examining the witnesses produced against him. The object of supplying statements is that the Government servant will be able to refer to the previous statements of the witnesses proposed to be examined against the Government servant. Unless the statements are given to the Government servant he will not be able to have an effective and useful cross-examination.

It is unjust and unfair to deny the Government servant copies of statements of witnesses examined during investigation and produced at the inquiry in support of the charges levelled against the Government servant. A synopsis does not satisfy the requirements of giving the Government servant a reasonable opportunity of showing cause against the action proposed to be taken.

For these reasons the appeal is dismissed. The State will pay costs to the respondent.

P.B.R.

Appeal

dismissed.

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