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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

OA No. 665-2001 °

New Delhi this 20th day of March, 2001

Hon'ble Mr. Justice Ashok Agarwal, Chairman, (J)
Hon'ble Mr. Govindan S. Tampi, Member (A)

Kanti Prasad Bangwal,
S/o Late Shyam Dutta Bangwal,
R/o C/o Anil Bangwal,
8/2 Sarita Vihar, Mathura Road,
New Delhi.

....Applicant.

(By: Shri H.P.Chakravorti, Advocate)

Versus

1. Union of India, through
The Secy. Min. of Communication,
Department of Postal Services,
Dak Bhawan, Parliament Street,
New Delhi.
2. The Director,
Postal Services , Dehradun Region,
Dehradun Uttaranchal.
3. The Sr. Supdt. of Post Offices,
Dehradun Region, Dehradun,
Uttarachal.

....Respondents.

(None for the respondents)

O R D E R (ORAL)

By: Hon'ble Sh. Govindan S. Tampi, Member (A)

Heard the learned counsel Shri H P Chakarvorti for the applicant. This is a case where applicant seeks to assail the orders passed in departmental proceedings against the applicant on 28/31.8.2000 and 28.11.2000.

2. Proceedings were initiated against the applicant, who was working as Sub Post Master Ranipokhari, vide charge sheet dated 6.6.97 for making payments in July 1994 against 109 MOs. payable to M/s

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Mahalaxmi Electronics (India) for the total amount of Rs. 31295/- to one Ravindra Kumar Gupta, without establishing the proper identification of the payee and ^{has} put the Department to a loss of the above amount. Criminal proceedings were also launched against him in the meanwhile. Without conceding his request for holding back the disciplinary proceedings, the Enquiry Officer was appointed who proceeded with the enquiry, without following the procedure under Rule 14(11) of the CCS(CCA) Rules 1967, held that the charges stood proved. Following the above the Disciplinary Authority imposed on the applicant the punishment of recovery of Rs.30833/- (Rupees thirty thousand eight hundred thirty three only) @ Rs.1000/- per month and reversion to the post of Postman in the time scale of Rs. 3200-85-4900/- . It was also ordered that the reversion will continue till the competent authority found him suitable for promotion and that during reversion period the official will receive the salary which he would have received had he not been promoted to Postal Assistants Cadre, but his salary will not be more than that of his salary in PA Cadre. The above order passed by the disciplinary authority was upheld by the Appellate Authority on 28.11.2000. Hence this application.

3. Shri H.P. Chakarvorty, learned counsel appearing for the applicant raised that this is a case where the injustice has been done by the ^{Enquiry} ~~disciplinary~~ authority, as the enquiry proceedings were taken ex-parte and without heeding his request for postponing it. The Enquiry Officer did not adhere to the drill provided for dealing with cases, when the Charged



Officer could not or did not attend the hearings - as provided under Rule 14(11) of CCS (CCA) Rules, and recorded his evidence and finalised his report which was accepted by both the Disciplinary Authority and the Appellate Authority. The entire proceedings have been vitiated and, therefore, the applicant should get the benefit, is what the counsel pleads. Shri Chakarvorti further argues that even if the amounts, if any, related to the M.Os. got wrongly paid to someone other than the correct ^{addressee} ~~addressee~~, there was no loss to the Department and the respondents' action in recovery the same from his salary and also reverting him from was improper and deserved to be set aside.

4. We have carefully considered the matter. The applicant attempts to assail the impugned orders of the Disciplinary Authority and the Appellate authority on the ground that the proceedings in the Departmental Enquiry against him were conducted ex-parte and that the procedure contained in Rule 14(11) of the CCS(CCA) have not been followed. Having perused the proceedings undergone, we do not find any merit in this plea. In spite of repeated opportunities being granted to the applicant, the Charged Officer, he has not cared to attend the hearings but has only been making prayers that the enquiry should not be held or should be held back as criminal proceedings also were initiated. This request has been turned down by the competent authority and he was advised to co-operate with the enquiry which he declined to do. The Enquiry authority had in the circumstances no alternative but to proceed with the enquiry ex parte and arrived at its ^{findings} ~~evidence~~ on the basis of evidence

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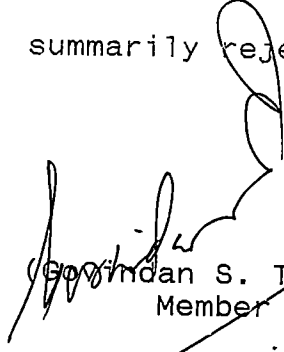
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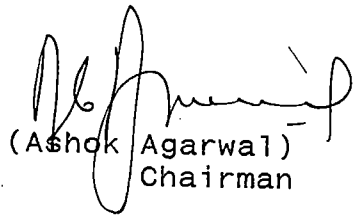
brought on record. The same held the charge as proved and it was correctly accepted by the Disciplinary Authority and the Appellate Authority. No holes can be picked in this arrangements and the procedure adopted by the respondents cannot be called in question. The arguments canvassed by the applicant that the payment of Money order to a wrong person was in fact a matter between the remitters and the intended payee and not something which causes the loss to the department is to say the least a specious one and cannot be accepted. The remitter placed the trust with the department for safe carriage of his postal articles including money to the addressee and the responsibility incorrect payment of the same to someone who was not the correct addressee would come back to the department, to make good the loss and therefore the department is materially concerned about such an incorrect action by the applicant, who was incharged for the safe delivery of the goods, including money. The failure to discharge it was of a considerably a serious nature. Still both the Disciplinary Authority and the Appellate Authority had taken a comparatively lenient view while dealing with to the applicant's case. Shri Chakarvorti's further plea that the disciplinary proceedings should have been held back till the criminal proceedings were over, also does not merit acceptance as both are independent proceedings and adequate evidence as brought on record during the departmental enquiry itself to bring home to him the irregularity or impropriety he was charged with. This being the case and as the Disciplinary and Appellate Authorities have acted in a proper and correct manner and in accordance with the procedure laid down, there is no reason whatsoever for

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any interference by this Tribunal. The application is totally devoid of any merit and is therefore being summarily rejected at the admission stage itself.


(Govindan S. Tampi)
Member (A)


(Ashok Agarwal)
Chairman

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