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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.320/1999

New Delhi, this 10th day of November, 2000

Hon'ble Shri Kuldip Singh, Member(J)
Hon'ble Shri M.P. Singh, Member(A)

Karamvir Singh
Nangloi, Mundkai
Delhi-41

.. Applicant

(By Shri Sant Lal, Advocate)

versus

Union of India, through

1. Secretary
Department of Posts
Ministry of Communications
Dak Bhavan, New Delhi
 2. Director Postal Services (P)
o/o Chief Postmaster General
Delhi Circle, Meghdoot Bhavan
New Delhi
 3. Sr. Superintendent of Post Offices
Delhi North Division
Civil Lines, Delhi-54
- .. Respondents

(By Shri K.K. Patel, Advocate)
Shri Furushotham Lal, Deptl. representative present

ORDER

By Shri M.P. Singh

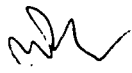
By the present OA, the applicant has challenged the order dated 19.5.98 imposing upon him major penalty of reduction of pay to the minimum of the pay scale of Rs.2750-4400(with two advance increments) from Rs.3170 to Rs.2890 for a period of five years w.e.f. May, 1998 during which he would not earn increments of pay and on expiry, reduction would not have the effect of postponing the increment, and also order dated 10-12/11/98 by which his appeal against the punishment order has been rejected.

2. Briefly stated, the applicant while working as Postman in Nangloi Post Office is alleged to have failed to make payments of MO amounts to the actual payees and

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voluntarily deposited the amounts in the Post Office on various occasions as enumerated in Statement of Articles of Charges served upon vide charge Memo dated 5.1.95. Prior to this he was placed under suspension vide order dated 4.6.93 on the ground of contemplation of disciplinary proceedings against him which was revoked by order dated 9.2.94 and he joined his duty on 11.2.94. He represented on 15.3.94 and 12.5.94 for regularising the suspension period. Instead, the aforesaid charge-memo was issued to him after a lapse of more than 18 months, under Rule 14 of CCS(CCA) Rules, 1965 for alleged violation of Rule 121(1) and 127(1) of Postal Manual and Rule 3(i), (ii) and (iii) of CCS(Conduct) Rules, 1954. He made representation on 19.1.95 denying the charges.

3. An Inquiry Officer (IO, for short) was appointed on 24-5/8.6.95. The IO concluded the enquiry and submitted his report on 19.3.97. All the three charges were held as NOT PROVED. However, the disciplinary authority (DA, for short) not agreeing with the findings of the IO, gave a note of disagreement. A copy of the enquiry report alongwith the note of disagreement was supplied to the applicant on 2.6.97 asking him to submit his representation. The applicant made a detailed representation on 10.7.97. Without considering the submissions made by the applicant in his representation, the DA passed the impugned order of punishment. That is how the applicant is before us praying for quashing the impugned orders cited supra.



4. Respondents in their counter have contested the OA. They have submitted that a complaint regarding non-receipt of money orders and misappropriation of government money by forging the signatures by the applicant was received, which was enquired into. It was revealed that 15 MOs amounting to Rs.2317 were shown as paid by the applicant but the payees of MOs disowned the payments and signatures of the paid vouchers. The applicant was placed under suspension and proceeded against which ultimately culminated in the issue of aforementioned impugned orders. It is stated by them that they have complied with the statutory provisions provided under the Rules while passing the impugned orders and cited a number of decisions of the apex court at page 52 of the paperbook justifying their action.

5. Heard the rival contentions of the contesting parties and perused the records placed before us.


6. Though a variety of grounds were taken by the learned counsel for the applicant in support of his contentions, the most important ones vital for proper adjudication of the case are that it is a case of no evidence, the DA used the statement of the applicant dated 23.7.93 obtained at the time of preliminary enquiry while showing disagreement with the findings of the IO, the DA has taken into account various other charges which are not part of main charge-sheet and the impugned orders are non-speaking and without application of mind inasmuch as that both the DA and appellate authority have not considered the various submissions made by the applicant in the representation in his defence. The learned counsel also cited the judgement

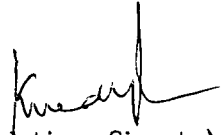


of the Hon'ble Supreme Court in the case of Ram Chander V. UOI 1985(2) ATR 262 SC in support of his contention that the DA should not only pass a speaking order but also give the charged official personal hearing.

7. In the counter, except denying the grounds advanced by the applicant, respondents have come with a very vague reply. Respondents have admitted in the reply that the delay in charge-sheet was due to completion of verification of past work of the applicant and investigation. They have further admitted that there is no mention of allegation of violation of sub-rule 3 and 4 of Rule 127 of Postal Manual Vo.IV-Part III. In the circumstances, we find force in the contentions of the learned counsel for the applicant that the DA should not have taken into account omissions/commissions of the applicant, which are not part of the charge-sheet, before passing the final order of punishment while the IO has specifically concluded that the charges against the applicant were not proved. We also find that the DA before passing his final order has not considered the various legal points raised by the applicant in his representation.

7. For the reasons discussed above, the impugned orders are bad in law and need to be set aside. We do so accordingly. Respondents are directed to restore the pay of the applicant with all consequential benefits. This shall be complied with within the period of three months from the date of receipt of a copy of this order. There shall be no order as to costs.


(M. P. Singh)
Member (A)


(Kuldip Singh)
Member (J)

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