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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.427/98

New Delhi, this the 15th day of September, 2000

HON'BLE MR. KULDIP SINGH, MEMBER (J)
HON'BLE MR. S.A.T. RIZVI, MEMBER (A)

Sh. Chander Singh, S/O Sh. Itwari Lal,
retired Postman of SRT Nagar, New
Delhi-55., post office under New Delhi
Central Postal Division, resident of
Distt. Faridabad, address for service of
notices, C/O Sh. Sant Lal, Advocate,
C-21 (B), New Multan Nagar, Delhi-56.

.....Applicant

(By Advocate: Sh. Sant Lal)

Versus

1. Union of India through its
Secretary, Ministry of
Communication, Deptt. of Posts,
Dak Bhawan, New Delhi-1.
2. The Director Postal Services (P),
Delhi Circle, Meghdoot Bhawan, New
Delhi-1.
3. The Sr. Supdt. of Post Offices,
New Delhi Central Division,
Meghdoot Bhawan, New Delhi-1.

.....Respondents..

(By Advocate: None)

O R D E R

Hon'ble Mr. S.A.T. Rizvi, Member (A):

The applicant has filed this OA against the order dated 30.9.96 (Annexure A-1) retiring him compulsorily from service and the order dated 26.2.97 (Annexure A-2) passed by the appellate authority rejecting his appeal against the punishment order.

2. Briefly stated the facts of the case are the following:-

3. The applicant was charged for misconduct on the ground mainly that a blue metro bag which contained

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postal articles etc., was found lying abandoned in a certain location within the beat of the applicant (Postman) which besides being a bad thing by itself also gave rise to adverse publicity in the media. For this irresponsible conduct, he was suspended on 9.9.96 and as usual the charge memo etc. was served on him. However, the disciplinary authority punished him with compulsory retirement solely on the basis of the confessional statement dated 26.9.96 made by him allegedly under pressure etc. from the respondents' side although earlier on 9.9.96 he had requested the respondents, without owning the guilt, that the matter needed to be properly investigated. The appellate authority also rejected the appeal preferred by the applicant more or less on the same basis.

4. We have heard the learned counsel for the applicant and have perused the material on record.

5. After considering the entire matter in the light of the letter and the spirit of the CCS (CCA) Rules, we find ourselves in agreement with the applicant that there are several problems with the manner in which the departmental proceedings have been undertaken in this case. It has rightly been contended by the applicant that the extreme penalty of compulsory retirement should not have been imposed on him without holding a proper enquiry in accordance with the said rules. His allegation is that his statement of ~~the~~ confession dated 26.9.96 which also happened to be his written statement of defence and on the basis of which he has been

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punished, was the result of threat, pressure and promise held out by the respondents right from the initial stages of the proceedings. The applicant has served the respondents' department for about 20 years without blemish and this factor should also have been kept in view by the respondents at the time of imposing the extreme penalty of compulsory retirement. He has correctly found support in the following ruling of the Hon'ble Supreme Court in Jagdish Prasad Vs. State of Madhya Bharat, AIR 1961 SC 1070, ~~is reproduced below.~~

"The departmental enquiry is not an empty formality; it is a serious proceeding intended to give the officer concerned a chance to meet the charge and to prove his innocence. In the absence of any such enquiry it would not be fair to strain facts against the appellant and to hold that in view of the admissions made by him the enquiry would have served no useful purpose. That is a matter of speculation which is wholly out of place in dealing with cases of orders passed against public servants terminating their services...."

6. He also relies on the judgement of the Cuttack Bench of this Tribunal in Ghanshyam Kabat Vs. U.O.I. & Ors., 1989 (10) ATC 774 in which it has been held that admission by itself does not relieve the disciplinary authority from the burden of proving the charge. The relevant extract taken from the above order of this Tribunal is reproduced below:-

".....Even if there is an admission, in our opinion, it does not relieve the burden of the prosecution to prove the charge. That apart the alleged admission has not been put to the delinquent officer as it is an incriminating circumstance appearing against him....."

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7. Having regard to the CCS (CCA) Rules and the requirement of natural justice, the applicant's admission should have been put to him as an incriminating circumstance to enable him to state his case and to defend himself properly against the allegation in question more particularly since the applicant did not, prima facie, seem to have made the said confessional statement in the very first instance nor, therefore, voluntarily. This view finds support in yet another observation of this Tribunal. The Madras Bench of this Tribunal in C. Kanniapan Vs. Director Jawahar Lal Institute of PGME & Ors., 1990 (1) SLJ CAT 385 has rightly held that no one can be punished merely on the basis of his confession. The applicant has alleged that the documents etc. forming part of the charge were not shown to him, and his request that the respondent authorities should carry out a detailed enquiry into the matter was never considered. As required in the Rules, the disciplinary authority has not recorded its findings in respect of each article of charge. The applicant has also contended that the disciplinary authority has also included extraneous matters in the orders passed by him, and to illustrate he stated that the following material which does not form ~~the~~ part of the charge memo, has been included in the final order of punishment:-

".....Even valuable mails like Drafts, Share Certificate were abstracted by Shri Chander Singh which constitutes a grievous offence under Section 420 IPC. In view of gravity of the offence which is not only departmental but also criminal in nature, I hereby compulsorily retire him from service,"

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Again, according to the applicant, the respondents have invented a new charge of "causing unmeasurable pecuniary and non-pecuniary loss to unsuspecting members of the public and alleged abstraction of Drafts and Share Certificates from the valuable mails by Shri Chander Singh which constitutes a grievous offence under Section 420 IPC", without giving him the opportunity to state his case against this charge. Further-more, he contends that the disciplinary authority's order is a non-speaking order which gives no reasons in support of the order of punishment. The opportunity of personal hearing too was not granted to him.

8. We have gone through the respondents' reply and find that beyond merely stating that the relevant rules have been followed by the them and denying the contentions of the applicant in general terms and referring briefly to the statement of a couple of witnesses (who had not been cross-examined), the respondents have not come out with anything that could convince us that the requirements of natural justice were properly and fully met in this case and that the relevant rules forming part of the CCS (CCA) Rules were consciously and effectively followed in letter and in spirit. In our view, the least that could have been done by the respondents was to allow the applicant to cross-examine the persons whose written statements were heavily relied upon and accepted in support of the charge memo, and to show to him the bags and other articles found on the spot. As a result, the departmental proceedings, in our view, suffer from the various

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weaknesses and deficiencies pointed out by the applicant and in the circumstances, we do not find it possible to sustain the punishment order nor consequently the appellate authority's order.

9. In the result, the OA partly succeeds and the impugned orders dated 30.9.96 (Annexure A-1) and 26.2.97 (Annexure A-2) are quashed with direction that the applicant will be reinstated giving liberty to the respondents to conduct departmental proceedings against him afresh, making sure this time that all the relevant rules and regulations are followed in letter and spirit and the deficiencies observed by us and pointed out by the applicant are avoided. The Respondents will pass appropriate orders with regard to the period from the date of his compulsory retirement to the date of his re-instatement in accordance with the relevant rules and instructions. They (respondents) will act similarly in respect of the period subsequent to the date of his re-instatement.

There shall be no order as to costs.

(S.A.T.Rizvi)
Member (A)

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(Kuldip Singh)
Member (J)