

Central Administrative Tribunal
Principal Bench: New Delhi

O.A. No. 1656/96

New Delhi this the 16th day of May 2000

Hon'ble Smt. Lakshmi Swaminathan, Member (J)
Hon'ble Mr. V.K. Majotra, Member (A)

Shri Hukum Chand Garg
S/o Shri Poona Lal Garg
Working as Asstt. Manager Mail Motor Service,
Deptt. of Posts, Meghdoot Bhawan,
New Delhi.

...Applicant

(By Advocate: Shri Sant Lal)

Versus

1. The Union of India, through the Secretary,
Ministry of Communications, Deptt. of Posts,
Dak Bhawan, New Delhi-110001.
2. The Director Postal Services (R),
O/O the Chief Postmaster General,
Delhi Circle, Meghdoot Bhawan,
New Delhi-110001.
3. The Senior Manager Mail Motor Service,
Naraina, New Delhi-110028.
4. Shri U.S. Sinha, Ex-Sr. Manager MMS,
Manager Central Workshop, Postal Machines,
Mail Motor Service, Naraina Complex,
New Delhi-28.

...Respondents

(By Advocate: Shri S.M. Arif)

ORDER (Oral)

Smt. Lakshmi Swaminathan, Member (J)

The applicant is aggrieved by the orders
passed by the respondents dated 31.12.94 and 22.5.96
(Annexure A-1 & Annexure A-2).

2. The brief relevant facts of the case
are that the applicant was working as Assistant
Manager, Mail Motor Service (MMS) New Delhi from
February 1982. He was issued a charge-sheet under
Rule-16 of Central Civil Services (Classification,
Control & Appeal) Rules, 1965. In the charge-sheet,
it was alleged that he had committed dereliction to

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duty, wilful insubordination, spoiling office decorum and displaying gross indiscipline/misconduct involving breach of Rule 3 of the CCS(Conduct) Rules, 1964.

3. A number of grounds have been taken by Shri Sant Lal, learned counsel for the applicant, impugning the final order that was passed by the Disciplinary Authority dated 31.12.94 which was later modified by the Appellate Authority vide ^{his} ~~the~~ order dated 22.5.96 by which a penalty was imposed on the applicant of reduction in pay by two stages in the time scale for a period of two years w.e.f. 31.12.94. One of the main grounds taken by the learned counsel for the applicant is that the penalty of reduction in pay imposed by the Disciplinary Authority and modified to some extent by the Appellate Authority falls within the provisions of clause (v) under major penalties of Rule 11 of the CCS (CCA) Rules, 1965 which cannot, therefore, be imposed without following the procedure laid down in Rule 14 of the CCS (CCA) Rules, 1965. He has also taken a number of other grounds regarding violation of principles of natural justice and that the Disciplinary Authority has not given reasons for ^{the} ~~the~~ penalty imposed by him.

4. We have seen the reply filed by the respondents, refuting the above contentions of the applicant, and have also heard Shri S.M. Arif, learned counsel for the respondents.

5. We have considered the pleadings and submissions made by the learned counsel for the

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parties. We find force in the contention of Shri Sant Lal, learned counsel, that the penalty of reduction in the time scale of pay imposed on the applicant for two years with the further direction that the applicant will not earn increments of pay during the period of reduction falls within the provisions of Rule-11(v) of the CCS (CCA) Rules, 1965. This being a major penalty under these Rules, the respondents ought to have held an enquiry in accordance with law and the procedure laid down in Rule 14, ibid, before imposing the major penalty which they have not adhered to. Shri Sant Lal, learned counsel has also relied on a judgment of this Tribunal in Jaswant Singh Vs. Union of India & Ors. (OA No. 339/96) decided on 3.2.2000, (copy placed on record, in which one of us Smt. Lakshmi Swaminathan, Member (J) was also a Member).

6. Having regard to the facts of the case, the nature of the penalty imposed on the applicant and the relevant Rule-11 read with Rule 14, ibid, the impugned penalty orders passed by the Disciplinary Authority as well as the Appellate Authority dated 31.12.94 and 22.5.96 are quashed and set aside.

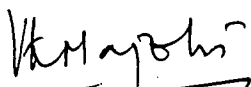
7. Shri Sant Lal, learned counsel has prayed that considering the fact that the charge-sheet was issued to the applicant as far back as on 8.2.94 wherein the respondents had proposed to take action against the applicant under Rule 16, ibid and the fact that the matter has been pending for nearly six years, in case the impugned penalty orders are quashed and set aside, further liberty may not be given to the respondents to proceed with the matter. In any case, he has submitted that if this is not agreed to, the respondents may be given a limited time within which to take a decision

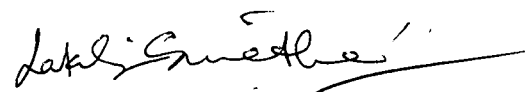
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whether they should proceed with the matter or not. Shri S.M.Arif, learned counsel has, however, submitted that since it is only a procedural infirmity it should be left open to the respondents to proceed with the matter in accordance with law.

8. In the facts and circumstances of the case, taking into account the submissions made by Shri Sant Lal, learned counsel mentioned in para 7 above, there is no doubt that the respondents ought to have strictly followed the procedure under the CCS (CCA) Rules in the first instance, which they have unfortunately not done. Accordingly if the respondents decide to proceed with the departmental proceedings against the applicant from the stage of charge-sheet, the same shall be done in accordance with law as expeditiously as possible and in any case the further proceedings should be commenced within two months from the date of receipt of a copy of this order, failing which it shall be presumed that the proceedings have been dropped. Needless to say, the applicant shall also fully co-operate with the departmental proceedings which shall be conducted in accordance with law and in compliance with the principles of the natural justice. The enquiry shall be completed as expeditiously as possible and in any case within six months.

9. The O.A. is disposed of as above in terms of paras 6 & 8. No order as to costs.


(V.K. MAJOTRA)
MEMBER (A)


(SMT. LAKSHMI SWAMINATHAN)
MEMBER (J)

cc.