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Central Administrative Tribunal, Principal Bench

OA No.1947/96

New Delhi this the 8th day of March, 2000.

Hon'ble Mr. Justice V. Rajagopala Reddy, Vice-Chairman
Hon'ble Mrs. Shanta Shastry, Member (Admnv)

Sh. Krishna Dutta Sharma,
S/o Shri Kalka Prasad Sharma,
Extra Departmental Branch Postmaster,
Manikpura Distt. Agra. ...Applicant

(By Advocate Shri D.P. Sharma, through proxy counsel
Shri Deepak Verma)

-Versus-

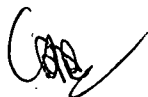
1. Union of India, through
Secretary,
Ministry of Communication,
Deptt. of Posts,
Sanchar Bhawan, New Delhi.
2. The Postmaster General,
Agra Region,
Pratpura - Agra.
3. The Sr. Supdt. of Post Offices,
Agra Region,
Agra.

(By Advocate Shri M.M. Sudan, through proxy counsel
Shri H.P. Chakravorty)

O R D E R (ORAL)

By Reddy, J.-

While the applicant was working as Extra Departmental Branch Postmaster, a chargesheet under Rule 8 of EDA conduct and Service Rules 1964 was served upon him on 6.1.93. The allegation against him was that he had accepted for booking a registered letter which had a used up stamp of Rs.ten only. As the applicant denied the charges, an enquiry officer was appointed and after a detailed enquiry the enquiry officer^{ies} drawn up his report dated 5.11.93 exonerating the applicant. He submitted the same to the disciplinary authority. The disciplinary authority sent a copy of the enquiry report to the applicant on 13.12.93 for sending his representation within 15 days. The applicant



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submitted his representation on 4.1.94. Thereafter, however, no action has been taken by the disciplinary authority on the enquiry report; the applicant thought that the proceedings have been dropped.

2. However, after a lapse of about two years and nine months the Senior Superintendent, Post Offices, Agra has sent the impugned show cause notice to the applicant stating the reasons for disagreement with the findings of the enquiry officer and asking the applicant to submit his representation to the same. This notice is impugned in this OA.

3. In the reply filed by the respondents the facts upto the submission of the enquiry officer's report to the then disciplinary authority on 2.12.93 and on 4.1.94 when the applicant made his representation to the enquiry officer's report, are admitted. Thereafter, it is stated that the case was put up before the disciplinary authority on 14.2.94 and 15.7.94 but no decision was taken by the then disciplinary authority. The case was again put up on 6.3.96 before the present disciplinary authority who by the impugned show cause notice dated 1.8.96 asked the applicant to submit his representation. It is further stated that as the then disciplinary authority had not taken any action on the report of the enquiry officer and the representation made by the applicant, the file was submitted to the Senior Superintendent of Post Offices for necessary orders and thereafter the present impugned show cause notice was issued by him.

(Signature)

4. None appears for the applicant either in person or through counsel. Respondents are also not present. Since the matter is of 1996, we proceed to dispose of the matter on merits.

5. The main contention raised in the OA is that the enquiry is vitiated due to extraordinary delay which was not explained. The departmental proceedings against the applicant who is an Extra Departmental Branch Postmaster appears to suffer from laches and inordinate and unexplained delay in completing the disciplinary proceedings. The charge relates to the incident that occurred on 21.12.91 when it was alleged that the applicant had booked a registered letter using postage stamp of Rs.10/- which was already used. Though the enquiry is said to have commenced in 1992, the chargesheet has been issued to the applicant in January, 1993. Thereafter the enquiry had proceeded expeditiously till the date of drawing of the report by the enquiry officer and submission of the same to the disciplinary authority on 2.12.93. It should be noted that the enquiry officer has found the applicant innocent of the charge. Thereafter, for no reason and practically unexplained in the counter-affidavit the disciplinary authority has simply slept over the matter for over three years. The file was placed before him more than once but he has chosen not to take any decision upon the report and pass a final order as to the guilt or otherwise of the applicant who was a petty Extra Departmental Branch Postmaster. Meanwhile the applicant has taken that the proceedings were abandoned.



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6. After ^{almost} three years the file appears to have been again placed before the present disciplinary authority, Senior Superintendent of Post Offices on 6.3.96 and after much deliberations he has passed the impugned show cause notice on 1.8.96. There is no explanation for the delay from 4.1.94 to 1.8.96 in issuing the present notice.

7. The law is well settled that unexplained delay, either in initiation of the disciplinary proceedings or delay in conducting the disciplinary proceedings, vitiates the enquiry vide State of Andhra Pradesh v. N. Radhakishan, JT 1998 (3) SC 123 and Food Corporation of India v. V.P. Bhatia, JT 1998 (8) SC 16. We are satisfied in view of the present facts and circumstances that the delay in initiation and completion of the disciplinary proceedings has prejudiced the interest of the applicant. It is also in the evidence that the applicant was placed on put off duty after the chargesheet in 1993 has been issued to him and he questioned the said put off duty in OA-605/96, seeking reinstatement, without, however, getting any relief. Thus the applicant is seriously prejudiced by virtue of the delay in the proceedings. The disciplinary authority being a highly placed officer, is expected to have completed the proceedings by passing the final order expeditiously. Unexplained delay is wholly justified.

8. In the circumstances, in view of the authoritative pronouncements of the Supreme Court, we are of the view that the enquiry against the applicant is vitiated by virtue of the inordinate and unexplained delay.

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9. The impugned order is, therefore, quashed and all the proceedings against the applicant are directed to be dropped.

10. The OA is accordingly allowed with costs of Rs.2,000/- (Rupees two thousand only).

Shanta S-

(Smt. Shanta Shastry)
Member (Admnv)

V. Rajagopala Reddy
(V. Rajagopala Reddy)
Vice-Chairman(J)

'San.'