

3

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

D.A. NO. 1611/89

Tuesday, this the 12th day of April, 1994

SHRI N. DHARMADAN (J)  
SHRI P.T. THIRUVENGADAM (A)

Rohan Lal,  
H.No.274, Shiban Pura,  
Ghaziabad.

... Applicant

By Advocate Shri Sant Lal.

V/s

1. The Member (Personnel),  
Postal Services Board,  
New Delhi 110 001.
2. The Director of Postal Services,  
Delhi Circle,  
New Delhi 110 001.
3. The Sr. Supdt. of Post Offices,  
South East Division,  
New Delhi 110 003.

... Respondents

None present for the respondents.

ORDER

N. DHARMADAN (J)

Applicant is a Postal Assistant. He is aggrieved by the penalty order, Annexure-A1, passed against him pursuant to disciplinary proceedings initiated under Rule 16 of CCS (CCA) Rules. Though it was upheld by the appellate authority as per Annexure-A2 order, the revisional authority has enhanced the penalty as per Annexure-A4 order, without advertizing to the objections filed by the applicant against the show-cause notice issued to him during the pendency of the revision.

.... 2/-

12

2. The facts, which are not disputed by the respondents, are as follows: The 3rd respondent as per memo dated 7.8.87 initiated a minor penalty proceedings based on the following charges:-

" Shri Roshal Lal while working as Postal Assistant (Regn counter) at Jamia Nagar PO, on 8.5.87 at about 15.00 hrs had a heated arguments with the SPM (I/C) and the Mail Clerk of that office over the acceptance of IIInd Class Mail tendered by Student Islamic India 151 Zakir Nagar New Delhi-110 025 and followad by the heated arguments he slapped the Mail Clerk Shri Sat Pal. The said Shri Roshan Lal is thus alleged to have failed to maintain devotion to duty and acted in a manner of unbecoming of a Govt. servant and thereby contravened the provisions of Rule 3(1)(i) & (iii) of CCS (Conduct) Rules, 1964. "

Applicant submitted Annexure-A5 reply denying the charges. Notwithstanding the denial, the disciplinary authority perused the statements recorded in the preliminary enquiry and other records available and came to the conclusion that the applicant is guilty of the charges. Accordingly, the disciplinary authority imposed the penalty of stoppage of his increment for one year without any future effect. The appellate authority confirmed the same. But, in revision, a show-cause notice dated 1.2.89 was issued to the applicant. Applicant filed Annexure-A8 reply on 9.3.89 objecting the enhancement of the punishment. According to the applicant, the punishment itself is unwarranted and not sustainable for the statements of the two witnesses relied on by the respondents in the enquiry were not testified giving an opportunity to cross examine them by the applicant. Under these circumstances, an enquiry under Rule 14 ought to have been conducted before imposing the punishment. Applicant further submitted that Annexure-A8 was not forwarded to the revisional authority for proper consideration and a fair disposal of revision petition in accordance with law. Hence, the revisional order is violative of principles of natural justice and illegal. It is to be quashed.

3. The fact that the revisional authority did not consider the objection, Annexure-A8, filed by the applicant is admitted by the respondents in the reply. In para 5.10 of the O.A. the applicant has

stated that he filed his reply to the show-cause notice on 9.3.89, within the stipulated time. But the concerned authority did not forward the same to the revisional authority for consideration. The respondents have admitted this fact stated by the applicant. Hence, it is to be presumed on the facts and circumstances of the case that the revisional authority failed to consider the contentions raised by the applicant against the show-cause notice and the penalty order, Annexure-A4. order enhancing the punishment cannot be sustained on any account. Accordingly, we are inclined to quash the said order.

4. The learned counsel, Shri Sant Lal, vehemently submitted that the disciplinary authority has committed a procedural irregularity in having imposed the punishment on the applicant without conducting proper enquiry under Rule 14 particularly when the disciplinary authority relied on the statements of two witnesses. According to him, the applicant should have been given an opportunity to cross examine those persons whose statements were relied on for punishing the applicant. The failure of the disciplinary authority to conduct an enquiry in accordance with the provision of Rule 14 has prejudicially affected the applicant. In this connection, he has relied on two decisions of the Central Administrative Tribunal, Madras Bench, in P.M. Durairaj vs. General Manager, Ordnance Factory, Trichy and another, I(1990) ATLT (CAT) 228 and in S. Govindarasu vs. The Superintendent of Post Offices, Nagapattinam and others ( D.A. No.416/1988). According to the applicant, these judgments would squarely apply to the facts of this case. In the light of these decisions, according to the applicant, the impugned orders, Annexures-A1 and A2, are unsustainable.

5. We have gone through the aforesaid decisions cited by the learned counsel for the applicant before us. There appears to be some force in the submission. But, we do not want to express our final opinion at this stage. In the view that we are taking in this case, it is not necessary for us to go into the merits and the application of the above two decisions.

6. Having regard to the facts and circumstances of the case, we are of the view that after setting aside Annexure-A4 order, the matter can be remitted to the revisional authority for a fresh consideration so that he may consider all the contentions raised by the learned counsel for the applicant before us on merits and take a final decision in the light of the above decisions cited by the applicant. In this view of the matter, while allowing the application in part and quashing Annexure-A4 order, we remit the matter back to the revisional authority for fresh consideration ~~etc~~, decide whether an enquiry under Rule 14 is necessary, whether the two orders passed by the disciplinary authority and the appellate authority are sustainable in the light of the two decisions referred to above and whether an offence has been made in the light of the explanation.

7. We direct the applicant to produce copies of the above two judgments with additional notes containing the contentions of the applicant supplementing his revision so as to enable the revisional authority to decide the case in a fair manner after careful consideration of all the contentions raised by him before us. This shall be done within three weeks from the date of receipt of a copy of this order. We direct the revisional authority to take a decision in the revision petition within a period of four months from the date of communication of the judgments with the note <sup>as</sup> ~~by~~ indicated above. It goes without saying that the applicant is entitled to get back the excess amount, if any, which had been recovered from the applicant due to the enhancement of the punishment by the revisional authority. This shall be disbursed to the applicant within a period of four months from the date of receipt of a copy of this order.

8. The application is disposed of as above. There will be no order as to costs.

P. T. Thiruengadam  
( P.T. THIRUVENGADAM )  
MEMBER (A)

N. Dharmadan  
( N. DHARMADAN )  
MEMBER (J)