

6

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

C.A. No. 790/1989

New Delhi dated, the 8th March 1994.

Hon'ble Sh.N.V.Krishnan, Vice Chairman(A)

Hon'ble Mr. B.S. Hegde, Member(J)

Shri Madan Lal  
R/o Village Lahchora,  
P.O. Ratual, District,  
Meerut (U.P.)

.. Applicant

(By Advocate Sh. Ashok Aggarwal)

V/s

1. Union of India  
through Post Master General  
Mohan Singh Palace,  
Baba Kharag Singh Marg,  
New Delhi.

.. Respondent

ORDER(ORAL)

(Hon'ble Sh. N.V.Krishnan, Vice Chairman(A))

The applicant was a ED Chowkidar under the respondents. He is aggrieved by the removal from Govt. service vide order dated 31.12.1986 (Ann.H) of the Asstt. Supdt of P.O., New Delhi and appeal filed against this order has been dismissed by the Senior Supdt. of Post Offices vide order dated 30.12.1987 (Ann.A)

2. It is stated that the applicant was engaged by the respondents on 24.12.1980 and was appointed as daily rated packer. Thereafter w.e.f. 1.9.81

he was appointed as E.D. chowkidar. During the period from 1.1.84 to 14.2.1984 he was also appointed as daily wages postman. Thereafter he continued to work as E.D. chowkidar. While so, he was put off <sup>from</sup> duty by the Ann.C order dated 3.12.1985 in respect of disciplinary enquiry regarding frequent absence from duty. Memorandum of charge was issued to him on 7.1.1986 (Ann.D). It is stated, that enquiry was conducted and the disciplinary authority passed an order vide dated 31.12.1986 (Ann.H). <sup>It reproduces the</sup> That order ~~is replaced~~ two articles of the charges against him and the statement of imputation on which they are based. The charges relate to frequent absence from duty from March, 1982 to Nov., 1985. The enquiry officer was appointed and he submitted report on 18.11.1986. The disciplinary authority, after considering the report, <sup>and</sup> ~~ordered~~ <sup>ed</sup> the applicant's removal.

3. This was upheld in appeal by the impugned Ann.A order. The applicant <sup>has</sup> ~~is~~ challenged the impugned order on mainly two grounds. Firstly, it is contended that the period from which he was put off duty, the applicant <sup>and</sup> ~~was~~ never paid any allowances, and therefore, the entire disciplinary enquiry is vitiated. Secondly, it is stated that penalty imposed <sup>and</sup> ~~is~~ <sup>is</sup> out of proportion ~~to~~ to the charge framed against him.

4. We notice that the applicant himself has levelled admitted, the charges <sup>u</sup> against him as it <sup>b</sup> clear <sup>u</sup> apparently from the impugned Ann.H-Order. In fact, in the memorandum of appeal filed by him Ann.I (page 24 of the paper book) he admits that he was absent on the dates mentioned in the memo. of imputation due to very compelling factors, due to my parent illness etc.
5. In the circumstances, we are of the view <sup>u</sup> that respondents can <sup>be</sup> not faulted for finding the applicant guilty of the charges framed against him.
6. In so far as the payment of allowance is concerned during the period he was put off duty, <sup>u</sup> it <sup>u</sup> is clear from rule 9 of the E.D.A. Conduct and Service Rules " that an employee shall not be entitled to any allowance for the period for which he is kept off duty under this rule."
7. In the circumstances, the applicant <sup>u</sup> cannot <sup>complain</sup> ~~claim~~ that no allowance has paid to him.
8. <sup>u</sup> In so far as the penalty is concerned it is <sup>a</sup> entirely <sup>a</sup> matter for the disciplinary authority. Hence it <sup>u</sup> is not <sup>for</sup> us to <sup>u</sup> interfere in the penalty imposed, <sup>u</sup> that once <sup>u</sup> the charges <sup>u</sup> are proved against the E.D.A.
9. In the circumstances, we find no merit in the O.A., it is dismissed.

<sup>u</sup>  
(B.S. Hegde)  
Member(J)

<sup>u</sup>  
(N.V. Krishnan)  
Vice Chairman(A)