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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 346
T.A. No.

1986.

DATE OF DECISION 28.5.87

Shri Brahaspati Prashad Petitioner

Shri Sant Lal, Advocate for the Petitioner(s)

Versus

Union of India and Ors. Respondent

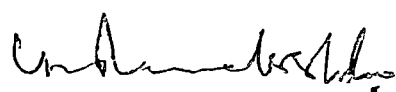
Shri K.C. Mittal Advocate for the Respondent(s)

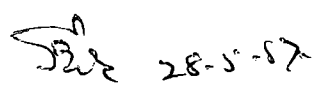
CORAM:

The Hon'ble Mr. S.P. Mukerji, Administrative Member.

The Hon'ble Mr. Ch. Ramakrishna Rao, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? ☒
2. To be referred to the Reporter or not? ☒
3. Whether their Lordships wish to see the fair copy of the Judgement? ☒


(Ch. Ramakrishna Rao)
Judicial Member

 28-5-87
(S.P. Mukerji)
Administrative Member

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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI
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Regn.No.OA-346/86

Date: 28.5.87

Shri Brahspati Prashad

..Petitioner.

Versus

Union of India & Ors.

..Respondents.

For Petitioner.

..Shri Sant Lal,
Advocate.

For respondents.

..Shri K.C.Mittal,
Advocate.

JUDGEMENT

(Delivered by Shri Ch.Ramakrishna Rao)

Proceedings were initiated against the applicant, under Rule 14 of the CCS(CCA) Rules 1965 (Rules for short), by the Senior Superintendent, Delhi Sorting Jn., Delhi (Respondent No.3) levelling against him the following articles of charge: -

1. That the said Shri Brahspati Parshad, Stg. Assistant, Delhi RMS absented himself from duty without any prior information/permission of the competent authority since 11.12.82 and thus violated the provisions of Rule 63 of P&T Manual, Volume III.
2. That the said Brahspati Parshad while functioning as Stg. Assistant Delhi RMS failed to resume duty despite repeated correspondence of SRO, Delhi RMS and thus violated the provision of Rule 3(I)(ii) & (iii) of the CCS (Conduct) Rules, 1964.
2. The Inquiry Officer (I.O.) who conducted the inquiry ex parte against the applicant held that the charges were established. R-3 on consideration of the report of I.O. and the facts and circumstances of the case concurred in the findings of the I.O. and passed an order on 26.3.85 inflicting the penalty of removal of service. The applicant preferred an appeal against the order of R-3 to the Additional Post Master General, Delhi Circle (R-2), who directed the disciplinary authority (R-3) to supply a copy of the report of the I.O. to the applicant to enable

him to submit a fresh appeal or submit some more grounds for his appeal. Aggrieved by the orders passed by R-3 and R-2, the applicant has filed this appeal.

3. This Tribunal has already held in and by its Order dated 30.7.1986 that the order dated 25.6.1986 of the Appellate Authority is no order at all in the matter of giving any relief to the applicant and held that the applicant could be deemed to have exhausted the remedy available to him .

4. Shri Sant Lal, learned Counsel for the applicant submits that his client was placed under suspension by R-3 by his order dated 23.9.1982 since disciplinary proceedings were contemplated against him, that the order of suspension was revoked and his client was reinstated in the service on 10.12.82; that his client attended office on 24.9.82 to perform his duties, ^{but} was prevented from doing so as ^{it} apparent from the statement of the Head Sorter at Annexure B to the application; that the order of reinstatement was not communicated to his client with the result that he could not report for duty on 11.12.1982; that his client had no knowledge of the said proceedings and therefore, he could not participate in the inquiry which culminated in the order of removal of his client from service without compliance with the procedure prescribed by the rules.

5. Shri K.C. Mittal, learned Counsel for the respondents submits that notice of the date on which the inquiry was held and notice of subsequent date to which the proceedings were to be adjourned were duly communicated to the applicant by letters sent through registered post but they were received back with the remarks 'Pane Wala Khabar Kari Ghan Par Nahi Milta'; that Sub-Postmaster, Maujpur informed by letter dated 11.7.84 that the addressee had refused to take delivery of the registered letters; that in view of

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this the I.O. had no option but to hold ex-parte proceedings, that on the basis of the material placed by the Presenting Officer on behalf of R-3, the I.O. was justified in arriving at the finding that charges against the applicant were established.

6. We have considered the rival contentions carefully. We are at a loss to understand why the I.O. did not chose to effect service of the notices on the applicant through 'substituted service' i.e. by affixing the notice at the residential premises of the applicant and obtaining a memo duly signed by responsible officer in proof of substituted service. We are, therefore, inclined to hold that the applicant was not put on notice of the charges levelled against him and was not afforded a reasonable opportunity to defend himself.

7. Turning to the merits, no material whatever has been placed before the I.O. by filing documents such as attendance register which would have demonstrated whether the applicant absented himself from duty without any prior permission of the competent authority from 11.12.82; nor was the Head Sorter or any other officer under whom the applicant was working, was produced before the I.O. by R-3 and his statement obtained to confirm the absence or resumption from duty by the applicant as alleged in the articles of charge.

8. The I.O. in his report has referred to the evidence of four witnesses examined on behalf of R-3. The evidence of these witnesses only confirm the notice that efforts were made by R-3 to serve on the applicant calling upon him to resume duty and they were returned with the postal endorsement already referred to in paragraph 5.

9. In our view this ^{is} not sufficient to establish the charges levelled against the applicant, ^{As} already pointed out the evidence of the kind referred to in the previous paragraph ^{fails} to bring home the charges. Such evidence—oral or documentary


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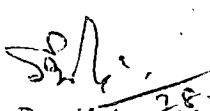
not having been placed before the I.O. it passes comprehension how the I.O. could have arrived at the findings that the charges levelled against the applicant were proved beyond doubt.

10. It is settled law that ⁱⁿ any quasi-judicial proceedings the mere ipsi-dixit of the officer concerned such as I.O. in the present case, is not enough to sustain the conclusion arrived at by the authority, unless supported by cogent reasons discernible from report of the I.O.

11. In view of the foregoing, we hold that the charges against the applicant have not been established. We accordingly set aside the orders passed by R-3, removing the applicant from service, ^{with} all consequential ^{benefits} ~~service~~ ^{service}.

12. In the result, the application is allowed. The parties shall bear their own costs.


(Ch. Ramakrishna Rao)
Judicial Member


(S.P. Mukerji)
Administrative Member