

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

REGN.NO. O.A.1426/87.

DATE OF DECISION: 2.2.1993

Bhoop Singh.

... Petitioner.

Versus

Union of India & Ors.

... Respondents.

CORAM: THE HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.
THE HON'BLE MR. I.K. RASGOTRA, MEMBER(A).

For the Petitioner.

... Shri S.K. Bisaria,
Counsel.

For the Respondents.

... Shri B.K. Aggarwal,
Counsel.

JUDGEMENT (ORAL)

(By Hon'ble Mr. Justice V.S. Malimath,
Chairman)

The petitioner, Shri Bhoop Singh, was a Parcel Clerk at New Delhi. A disciplinary inquiry was held against him in regard to certain incidents that took place on 25.2.1985. The inquiry was held and the Inquiry Officer submitted a report that the charge against the petitioner is held proved. That was accepted by disciplinary authority and an order was passed on 13.1.1987 removing him from service. The appeal preferred by the petitioner against the said decision was dismissed on 4.3.1987. A revision petition filed against the said decision was also rejected by the Revisional authority on 31.8.1987. Hence this petition.

2. The principal contention of Shri S.K. Bisaria, learned counsel for the petitioner, is that there is an error apparent on the face of record justifying interference. It was submitted:

5

that on the date of incident the petitioner was posted to be incharge of the Cloak Room. His duty hours were from 14.30 to 22.30. As the Parcel Clerk did not turn up, the petitioner was asked to do his work also from 10.30 P.M. to 6.30 A.M. next day. The petitioner's case is that during this period when he was asked to do the additional work, certain irregularities and misconduct had taken place. It was submitted that he was not responsible for the loss of missing grapes parcels. It was further submitted that he was only asked to make entries in regard to the receipt of parcels which he faithfully complied with. He, therefore, submitted that as he was not required to do the duty of ^{receiving} /incoming parcels, he cannot be held responsible for the missing parcels. He submitted that in the circumstances he cannot be held responsible for making entries which are not truthful. All the contentions urged by the petitioner bear an appreciation of evidence. We have perused the Inquiry Officer's report which has been accepted by the disciplinary authority. The findings are supported by the evidence produced in the case. The findings of fact have been recorded on consideration of the evidence produced in the inquiry. They are, therefore, not liable for interference at our hands. The appellate order though not very elaborate cannot be termed as wholly not speaking order. So far as the order of the revisional authority is concerned, we are not satisfied that there has been proper application of mind as the revision petition was rejected without any consideration of the petitioner's case. It

V

is in this background that we are inclined to remit the case to the revisional authority.

2. In our opinion, as we have found that the findings of fact are not available, the limited question now is to examine the appropriateness of the punishment imposed. The petitioner's counsel rightly and fairly submitted that the petitioner is willing to forego the arrears of back wages in the event of revisional authority directing reinstatement in service subject to imposition of other penalties. We are inclined to take the view that the petitioner's long service merits being taken into consideration. We are also inclined to take the view that the fact that the petitioner was required to do additional work at the late hours in the day also requires to be taken into account particularly when he had already done work in two shifts in the Clock Room. Having regard to the background of this case, it is eminently a fit case for examining the case of the petitioner for imposing a penalty which would not come in the way of his being reinstated in service subject to the condition that the petitioner shall not be entitled to claim any arrears of back wages. In the circumstances, it would be just and fair to give him the other benefits regarding seniority and continuity in service. The promotions made before his reinstatement may, however, remain undisturbed. We hope that the revisional authority will pass a proper order in the light of the discussion, as aforesaid, expeditiously and not later than three

7

months from this date. Let a copy of this order be sent to
Respondent No. 3 forthwith.

I. K. Rasgotra
(I.K. RASGOTRA)
MEMBER(A)

V. S. Malimath
(V.S. MALIMATH)
CHAIRMAN

'SRD'
020293