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CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench

O.A. No. 2610 of 1990

New Delhi, dated this the 28th April, 1997

HON'BLE MR. S.R. ADIGE, MEMBER (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Shri Suraj Pal,
S/o Shri Asharfi Lal,
C/o Shri Sant Lal, Advocate,
C-21, New Multan Nagar,
Delhi-110056.

... APPLICANT

By Advocate: Shri Sant Lal

VERSUS

1. Union of India through
the Secretary,
Ministry of Communications,
Dept. of Posts,
Dak Bhawan,
New Delhi.

2. The Director, Postal Services,
Haryana Circle,
Ambala Cantt.

3. The Supdt. of Post Offices,
Faridabad Division,
Faridabad-121001. RESPONDENTS

By Advocate: Shri M.M.Sudan

ORDER (Oral)

BY HON'BLE MR. S.R. ADIGE, MEMBER (A)

Applicant impugns the disciplinary
authority's order dated 2.1.89 (Ann. A-1)
removing him from service and the appellate
order dated 31.10.89 (Ann. A-3) rejecting the
appeal.

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2. Applicant was proceeded against departmentally on the charge that he unauthorisedly absented himself from duty w.e.f. 3.10.86 till the date of the issue of the charge sheet on 21.7.88.

3. The E.O. in his findings held the applicant guilty of charge, and those findings were accepted by the disciplinary authority resulting in the impugned removal order, against which the appeal was rejected.

4. We have heard applicant's counsel Shri Sant Lal and the Respondents' counsel Shri M.M.Sudan.

5. Our attention has been invited to that portion of the appellate order dated 31.10.89 where it has been mentioned that a complaint was received that the applicant had secured employment in the Dept. on the basis of a forged certificate. On verification the certificate was found to have been forged, upon which a criminal case was registered against him upon which he unauthorisedly absented himself from duty to evade arrest and reported for duty only on 18.11.89 after obtaining bail from the criminal court.

6. In this connection our attention has also been invited to O.A. No. 2608/90 Ramjeet Singh Vs. U.O.I. in which he had also impugned his order of removal from service as well as the appellate order issued under very similar circumstances. In that appellate order also, reference had been made to that applicant's unauthorised absence from duty to evade arrest in a criminal case. Owing to a difference of opinion in the Division Bench hearing the O.A. the matter was referred to Hon'ble Shri A.V. Haridasan, Vice-Chairman(J) who while recording the majority opinion held that he could not agree with one view expressed that the mention of the criminal case could not be considered as an extraneous matter or that it had not been a ground for rejecting the appeal. Holding that the appellate order therefore stood vitiated, by majority judgment dated 7.1.97 the appellate order had been set aside on that amongst other grounds.

7. No materials have been shown to us to indicate that the aforesaid judgment dated 7.1.97 has not become final. Shri Sudan informs us that as per his instructions from the Departmental Representative Shri V.K.Raizada, Asst. Supdt. of Post Offices who is present in the court that no SLP was filed against that order.

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8. In the present case also we find that reference has been made in the appellate order to the criminal case stated to have been instituted, against the applicant in respect of submission of allegedly forged certificate on the basis of which the present applicant secured the employment, and that to evade police action he unauthorisedly absented himself from duty and reported back on 18.11.89 only after taking bail. We find that the ratio of that majority judgment in Ramjeet Singh's case (Supra) in so far as the induction of extraneous materials in the appellate order is concerned, fully applies to the facts of the present case also.

9. Under the circumstances the O.A. is allowed in part. The impugned appellate order dated 31.10.89 is quashed and set aside and the matter is remitted back to the appellate authority with the direction to reconsider the appeal, after giving applicant a reasonable opportunity of being heard in person and thereafter to pass a detailed, speaking and reasoned order in accordance with law as expeditiously as possible and preferably within four months from the date of receipt of a copy of this order. While doing so the appellate authority should keep the contents of Tribunal's judgment in Ramjeet Singh's case (Supra) which relates to the same office, squarely in view.

10. This O.A. stands disposed of accordingly. No costs.

A. Vedavalli

(DR. A. VEDAVALLI)
Member (J)

/GK/

S.R. Adige
(S.R. ADIGE)
Member (A)