

Open Court.

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

BENCH ALLAHABAD.

Allahabad: this the 01 day of June 2000.

Original Application No. 108/96.

CORAM:

Hon' ble Mr. S.K.I Naqvi. J.M.

Hon' ble Mr. M.P Singh.A.M.

Panchu Ram Chaudhary aged about 38 years son

of Ram Ganesh Resident of Village and P.O

Lalgunj, District:- Basti employed as E.D.D.A

Lalgunj, Sub ~~Post~~ Post Office in the District:-

Basti.

(Counsel for the applicant: Sri J.M. Sinha. Adv)

.....Applicant.

Versus.

1. Union of India through the Secretary
Department of Posts Ministry of
Communication, Dak- Bhawan, Parliament
Street, New Delhi- 110001.
2. Asstt. Superintendant Post Offices, East
Sub Division, Basti.
3. Superintendant Post Offices, Basti Division, Basti.

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(Counsel for the Respondents: Sri S.C. Tripathi. Adv)

.....Respondents.

_O_R_D_E_R_ (Oral)

(By Hon'ble Mr. S.K.I Naqvi.J.M.)

The applicant Sri Panch Ram Chaudhary, while posted as EDDA at Lalgunj, District Basti, he was subjected to departmental enquiry in respect of non-delivery of money-orders to the payee thereafter on completion of enquiry, holding him guilty of the charges he was removed from the service by Assistant Superintendent of Post Offices, Basti East, Basti vide order dated 13.09.93. The applicant preferred an appeal against this order, which was decided by Supdt. Post Offices, Basti vide order dated 31.12.93 and the matter was remanded for trial denovo with the direction that the payee of the money-order, namely, Sri Samad was very important witness but he was not examined, therefore, this witness alongwith other witness be examined and fresh findings be given. The fresh enquiry was taken up and concluded with the findings that on the basis of documentary as well as oral evidence as adduced earlier and in view of non appearance of witnesses, inspite of sufficient notice to them, the applicant was found guilty, and charges held to be proved against him. In furtherance of this finding, the applicant was dismissed from service by disciplinary

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authority vide order dated 30.11.94, the copy of which has been annexed as Annexure No.A-1. The applicant preferred an appeal against this order, but the same has also been dismissed by Superintendant Post Offices, Basti, vide order dated 28.02.95/28.04.95, the copy of which has been annexed as Annexure No.2 to this application^{and}, the findings of the enquiry officer and punishment order by disciplinary authority have been upheld. The applicant has preferred this O.A impugning these orders.

2. The respondents have contested the case and have pleaded to justify these impugned orders.

3. Heard, learned counsel for rival contesting parties and perused the records.

4. We find very peculiar feature in this matter that the evidence on the basis of which the applicant was held guilty and punishment was set aside in the departmental appeal and he was again subjected to denovo trial, but on the basis of same evidence he has again been held liable for the charges which are said to have been proved and he has been punished by the disciplinary authority and the Appellate Authority, who is supposed to be senior and responsible officer of the department, upheld

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this punishment order without considering that the evidence which was not found sufficient when the matter came up in appeal before his predecessor *has again taken as basis of findings* who remanded for enquiry *denovo*. We also find that this impugned order dated 13.09.93 is not well detailed and the order through which the matter was remanded earlier has not been discussed in right perspective. The notion adopted by the Appellate Authority that where the witnesses were not produced from the side of prosecution, the party charged should have examined by them, is not approved in service jurisprudence.

5. For the above, we set aside the Appellate Order with the direction that the matter be re-considered and fresh order be passed within 3 months from the date of communication of this order by detailed speaking and reasoned order with specific mention to the findings and observations, as made by the then appellate authority, who passed the order on 31.12.93, the copy of which is annexed as Annexure No.7 to the application.

6. The O.A is disposed of accordingly.

No order as to cost.

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Member (A)

S. K. Nayak
Member (J)