

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 23rd DAY OF OCTOBER 1997

Original Application Bi. 1091 of 1996

HON.MR.JUSTICE B.C.SAKSENA,V.C.

HON.MR.S.DAS GUPTA, MEMBER(A)

Nand Lal Kushwaha, son of
Shri Ram Badan Kushwaha
R/o village and post Office Kanta,
Varanasi, presently posted as Deputy
Post Master Head Post Office,
Pratapgarh

... .. Applicant

(By Advocate Shri O.P. Gupta)

Versus

1. The Union of India through Post
Master General, Allahabad.
2. Superintendent of Post Offices
Mirzapur, District Mirzapur
3. Sector Post Master Pratapgarh
/Disciplinary Authority, Pratapgarh
4. Ram Samujh Yadav, Senior
Superintendent of Post Offices,
Faizabad.

... .. Respondents

(By Advocate Shri N.B. Singh)

O R D E R(Oral)

JUSTICE B.C.SAKSENA.V.C.

This OA has come up for orders as regards admission. The pleadings of the parties are complete. The learned counsel for the applicant submitted that since the departmental inquiry against him is not proceeding, the OA itself may be heard and decided. We have accordingly proceeded to hear the learned counsel for the applicant.

2. We have been taken through the pleadings on record and the documents. One of the main submission made by the learned counsel for the applicant is that the originals of the documents sought to be relied upon in support of the charge sheet ~~and~~ indicated ⁱⁿ ~~that~~ the charge sheet had not been shown to him instead photostat copies were furnished to the applicant firstly on 4.4.95 and then on 19.3.96. The case of

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the applicant is that there is discrepancy between the photo copies made available to him on the aforesaid two dates. The learned counsel for the applicant has also invited our attention to the Enquiry officer's report which also shows that the Enquiry officer was satisfied that there is discrepancy between the two sets of photo stat copies made available to the applicant.

3. The respondents in their counter affidavit has, however, stated that the photostat copies furnished to the applicant on 19.3.96 are genuine and the photostat copies stated to have been made available on 4.4.95 are forged. It is not necessary to enter into this controversy. We find from the chargesheet that the statement of certain witnesses are sought to be replied upon the photostat copies of whose statements have been furnished to the applicant. We further find that the said very statements are sought to be relied upon of those who have been cited as witnesses. The enquiry proceedings have been stalled since the applicant has been demanding that the originals of the statements of the witnesses recorded earlier may be furnished to him.

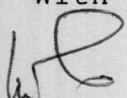
4. In our opinion, the stalling of the inquiry is unnecessary. We have already held in several cases that the OA would not be maintainable against the chargesheet since it is only at the enterlocutory stage of the proceedings and no final order is issued. The O.A would be maintainable only against a final order.

5. However, since the applicant has raised the grievance about the original documents not to being furnished to him and there being discrepancy between the two sets of photostat copies we provide that the original copies of the statements of the witnesses in which the Enquiry officer has found discrepancy to exist may be made available to the applicant for his inspection. If for any reason what so ever, the said original documents are not forthcoming and are not shown to

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the applicawnt, we feel that it should not hold up the enquiry. The enquiry may proceed and the statements of the witnesses may be recorded after giving due opportunity to the applicant to cross examine the said witnesses. The Enquiry officer may conclude the inquiry and give his findings on the basis of the statements of the witnesses recorded during the disciplinary proceedings. If the original documents are not made available then the photostat copies of the statements of witnesses may be ignored and the inquiry may be concluded and findings be recorded on the basis of the statements of witnesses. We further provide that the enquiry may be concluded and finalised in the light of the observations made hereinabove within three months from the date a copy of this order is made available to the Enquiry officer. The Enquiry officer may submit his report within three months and the disciplinary authority may pass necessary orders within two months thereafter.

6. With these observations the OA is disposed of accordingly.


MEMBER(A)


VICE CHAIRMAN

Dated: 23rd October, 1997

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17.3.1998

O.A.1091/96


Hon'ble Mr. S. Dayal AM

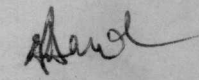
Hon'ble Mr. J.P.Sharma JM

Shri Vinod Prasad for the applicant. Shri N.B.singh for the respondents. The learned counsel for the respondents moves Civil Misc. application no. 233/98 in which further 3 months time has been sought for complying with the directions given in the judgment of O.A. 1091/96

The learned counsel for the applicant opposes this application and mentions that time is not required and the respondents are trying to delay the promotion of the applicant. During his arguments, he himself has stated that today is the time fixed for recording the statement of witnesses to be produced by the delinquent. Thus it is clear that some more time shall be required for completing the enquiry which was required to be completed under the direction of the Tribunal within 3 months.

We, therefore, allow further time of 3 months to the respondents for complying with the directions of the Tribunal given in O.A.1091/96. Both the applications may be treated as disposed of.


J.M.


A.M.

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