

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 6TH DAY OF MAY, 2002

Original Application No.1183 of 1997

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MR.S.DAYAL, MEMBER(A)

Mahesh Chandra Verma, a/a 33years
Son of Shri Ram Saran Lal,
Former Postman, Rampur Head
Post office, Rampur.

... Applicant

(By Adv: Shri A.K.Srivastava)

Versus

1. Union of India through its
Secretary, Ministry of
Communication, Dak Bhawan,
New Delhi.
2. The Senior Superintendent of
Post Offices, Moradabad
Division, Moradabad.
3. Director Postal Services,
Bareilly Region,
Bareilly.

... Respondents

(By Adv: Ms.Sadhna Srivastava)

O R D E R(Oral)

JUSTICE R.R.K.TRIVEDI,V.C.

This OA u/s 19 of A.T.Act 1985 has been filed challenging order dated 12.12.1994(Annexure2) by which applicant has been awarded punishment of removal on conclusion of disciplinary proceedings. The order has been maintained in appeal by Appellate order dated 30.5.1997 which has also been challenged. The applicant was served with a memo of charge on 20.9.1993. The allegations against the applicant were:

- i) That he refused to hand-over his written statement recorded by SSPOs, Moradabad on 17.6.93 and put the paper in his mouth

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- ii) Left the station without permission of the Competent Authority during suspension period.
- iii) He had left the head quarters during 20.2.1992 to 16.11.92 and performed duty of BPM Deorania unauthorisedly.

As usual Inquiry officer was appointed and disciplinary proceedings were concluded by submitting a report dated 14.9.1994. Inquiry officer found all the charges against the applicant proved. The Disciplinary authority agreed with the report and passed the order of punishment dated 12.12.94 which has been upheld in appeal.

Shri A.K.Srivastava, learned counsel for the applicant has submitted that the ~~background~~^{background} behind these proceedings was the litigation in this Tribunal as wife of the applicant had filed OA 1580/92 challenging her ~~removal~~^{removal} from the post of EDBPM. The applicant was pressurised to get the OA withdrawn but when he failed to oblige the senior supdt. of post office, a memo of charge was served on him on 30.9.1993. The charges against him were baseless. It is also submitted that ⁱⁿ the charge no.1, the nature of the said statement has not been disclosed, so that its gravity could be assessed. The counsel for the applicant has submitted that in memo of appeal in para 3 applicant raised this issue that disciplinary proceedings were initiated against the applicant due to bias but it has not been examined by the Appellate Authority. It is also submitted that the extreme penalty of removal from service is not commensurate to the charges. The Appellate Authority has failed to address itself on this ground also.

Ms.Sadhna Srivastava, learned counsel for the respondents, on the other hand, submitted that the charges against the applicant were grave and serious and order of punishment is justified. So far the allegations contained in para 3 of the memo of appeal it has been stated that it was not pressed and the Appellate Authority has not committed any error, calling for interference by this Tribunal.

We have carefully considered the submissions of the counsel for the parties. However, we are not satisfied that Appellate Authority has considered all the points raised by the applicant in his memo of appeal. Allegations made in para 3 against the disciplinary authority were serious and important for his defence. The Appellate Authority ought to have considered the allegations with the help of the record mentioned therein. The Appellate Authority on his own selected certain points from the memo of appeal and decided them, but the grievance shown in para 3 was not considered. In the circumstances, it is difficult to say that the point was not pressed before the Appellate Authority. Looking to the charges it was also obligatory for the Appellate Authority to consider the quantum of punishment whether it was commensurate to the charges or not. In view of the aforesaid discrepancies in the appellate order, we are of the view that matter may be remanded to the Appellate Authority for deciding it again in accordance with law.

For the reasons stated above, this OA is allowed in part. Appellate order dated 30.5.1997(Annexure 4) is quashed. The appeal of the applicant shall stand restored and shall be considered and decided in accordance with law in the light of the observations made above within a period of three months from the date a copy of this order is filed. There will be no order as to costs.



MEMBER(A)



VICE CHAIRMAN

Dated: 6th May, 2002