

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH: ALLAHABAD

ORIGINAL APPLICATION NO. 1493 OF 1998

ALLAHABAD THIS THE 22nd DAY of February, 2005

HON'BLE MR. JUSTICE S. R. SINGH, VICE-CHAIRMAN  
HON'BLE MR. S. C. CHAUBE, MEMBER-A

Yogesh Kumar Tuli,  
Son of Shri Tilak Raj Tuli,  
presently working as Wireman in the Head Post  
Office, Bareilly.

..... .Applicant

( By Advocate Shri K.N. Mishra )

Versus

1. Union of India,  
through the Secretary,  
Ministry of Communications,  
New Delhi.
2. Senior Superintendent of Post Offices,  
Bareilly.
3. Director, Postal Services, Bareilly.
4. Member (O) Postal Services Board,  
Government of India,  
Ministry of Communications,  
Department of Post,  
New Delhi-110001.

..... .Respondents

( By Advocate Shri O.S. Shukla )

O R D E R

HON'BLE MR. S. C. CHAUBE, MEMBER-A

Through this O.A. the applicant has sought  
direction to quash order dated 19.08.1993 passed by

*Shukla*

Senior Superintendent of Post Offices, Bareilly imposing punishment of stoppage of his increments for three years without cumulative, <sup>in effect</sup> Appellate order dated 20.02.1995 passed by Director Postal Services Bareilly and order dated 24.09.1998 passed by Member (D) Postal Services Board, Ministry of Communication, Department of Posts New Delhi confirming the punishment imposed by the disciplinary authority.

2. Briefly, the facts as per the applicant, are that he was served with Rule 14 Chargesheet CCS (CCA) Rules 1965 with the allegation that he has introduced the unknown and false depositors of fake institutions, On SB-3 (Index Cards) of S.B.A./C No.593877 & 593879 at the time of opening of new SB accounts at Bareilly Head Office. However, Shri Yogesh Kumar Tuli(Wireman) D.O. Bareilly has presented himself as an introducer and helped to open new SB Accounts of unknown and false depositors (whom he did not know) making fake witness on SB-3 (Index Card) with the motive to facilitate deposits in these accounts through cheques issued fraudulently from the cheque book of Zila Samaj Kalyan Adhikari Bareilly SB Cheque account No.593320 and to make payment to the fake depositors by cheating <sup>in</sup> the Government.

3. It is contended by the applicant that the punishment order by Senior Superintendent of Post Offices

*Shank*

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Bareilly was not a speaking as well as a reasoned order.

Similarly the Appellate order passed by Director Postal Services Bareilly was also not speaking and reasoned.

The applicant has further stated that when he came to know on 27.05.1992 that S.B. Account No.593887, 593879

has been opened by someone by impersonation of his handwriting and his signatures, he immediately protested in writing and submitted an application dated 27.05.1992 to SSPoS . . Bareilly HQ for immediate

action. This fact has been admitted by the APM(SB) in course of rule 14 enquiry initiated against the

applicant. Secondly request of the applicant before the enquiry officer to obtain expert opinion regarding his hand writing and the signature on SB-3 application cards were not accepted to prove the case against the applicant. It has further been contended by the applicant that the application card (SB-3) Account No.593877, 593879 do not indicate that the intention of the depositor was to open cheque accounts for availing cheque facility. According to him, somebody impersonated the signature in collusion with interested P.O. staff and wrote the name and address on the cards with sole motive to implicate the applicant in the case. According to the applicant the PM/ SPM has not accepted the signature of the applicant as introducer on the SB-3, in accordance with Rule 26(A)(1) of Postal Manual

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Vol-I which provides that when initial deposit for opening an account is made by a cheque, the depositor will be asked to introduce himself to the post Office by a person who has already a cheque account in the same office or whenever the PM/ SPM is satisfied about his bonafide. The introduction will be taken in the column provided in the application form (SB-3). If it is taken for granted that the depositor of the above mentioned two accounts intended to open the accounts with initial deposit by cheque but the application cards (SB(3) do not reflect their intensions as there is no descriptions of such intensions on SB-3. Further according to the applicant, the PM/SPM has not accepted the signature of the applicant as introducer on the SB-3, in accordance with above mentioned rule. Also it has been contended that the authorities did not examine the provisions containing in rules and placed reliance on a false statement of the SB Counter Clerk who is also a culprit in the fraud case of fake is-sue and deposit of cheques in several SB Accounts. Besides the counter clerk ~~do~~not consider it proper to direct the depositor to be introduced before the APM (SB). This, therefore, goes to prove that the accounts were not intended for opening by cheque at the initial stage and the applicant did not introduce the so called fake ~~depositors~~/institutions by putting his signatures on the application cards (SB-3).

4. On the other hand, the respondents have contended that both the punishment as well as the *th*

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Appellate orders are reasoned and speaking. As regards replacement of the words "with immediate effect" by "without cumulative effect" it was only removal of inoperative defect as permissible in Rule 130 of <sup>Al</sup> ~~Poste Maw~~ Vol III. It has been further stated by the respondents that the applicant had given an application stating that he had not identified the depositor, but it was merely his afterthought. The evidence as recorded proved that he has signed SB-3 in the presence of the SB Counter Clerk. Further the enquiry report, as contended by the respondents, was based on the evidence collected during the enquiry and it was not necessary for the I.O. to obtain the opinion of the handwriting expert <sup>firm</sup> ~~Al~~ in view of the ~~fake~~ statement of the counter clerk that the applicant had signed on SB-3. The respondents have further clarified that the applicant has introduced unknown depositor without knowing his whereabouts and witnessed Index Card (SB-3) for A/c No. 593877 and 593879 at Bareilly Head Office. The fact that no withdrawal has been made from the accounts is immaterial and not necessary in case of institutional ~~acc~~ accounts. According to the respondents, the applicant <sup>Al</sup> had ~~yet~~ identified the investors who were found as non-existing institutions at the given address and it is amply proved in <sup>by evidence of</sup> enquiry <sup>by</sup> counter clerk. Thus, the applicant is held responsible for the charges which were fully proved after holding the enquiry. <sup>Al</sup> Therefore, in view of the lapses committed by the applicant the <sup>gravity of</sup> punishment imposed <sup>on</sup> by him is commensurate with the

seriousness of the charges.

5. We have heard the counsel for the parties and perused the pleadings.

6. There is a ~~lot~~ of substance in the contention of the respondents that the charges levelled against the applicant were fully proved. Similarly the disciplinary authority after considering the report of the enquiry officer awarded the punishment of ~~1~~ <sup>stoppage of increment</sup> for 3 years without cumulative effect. The Disciplinary Authority, Appellate Authority and Member (D) Postal Services Board, New Delhi have unanimously expressed the opinion that both these orders are legal and valid. It is further observed that the Appellate Authority as well as the Revisional Authority have carefully considered the claims of the applicant while disposing the appeal and representation preferred by the applicant. There is also nothing to suggest either bias or violation of any Principles of Natural Justice in the conduct of the departmental ~~as~~ enquiry against the applicant.

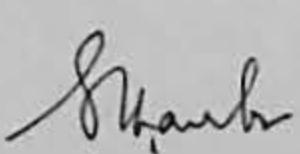
7. Before parting with the case, one is inclined to recall the settled legal position delineated by the Hon'ble Supreme Court on the question of judicial review. Accordingly, only the decision making process and not the merits of the decision is reviewable as courts does not sit as Appellate Court while exercising power of review. As observed by the Hon'ble Supreme

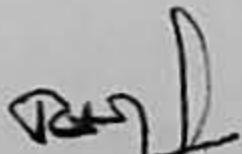
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*Abd*  
Court in the case of Union of India and Another Vs. Balbir

Singh And Anr. 1998 SCC (L&S) 1493 it was held that the Tribunal could not have substituted its own satisfaction in place of satisfaction of the President. Similarly as observed by the Hon'ble Apex Court in Apparel Export Promotion Council Vs. A.K. Chopra 1999(1) SC 61. So long as the findings of the Administrative Authority are reasonably supported by the evidence and have been arrived at through the proceedings which cannot be faulted with for procedural illegalities or irregularities which vitiate the process by which the decision was arrived at, *Abd*, the courts will be well advised to refrain from exercising the power of judicial review on a matter which fell squarely within the sphere and jurisdiction of the Administrative Authority. We are, therefore, not inclined to interfere in the orders passed by the Disciplinary, Appellate and Revisional Authorities.

*Abd*.  
8. For the aforesaid reasons and the case law\$, the O.A. is accordingly dismissed. We, however, make no order as to costs.

  
Member-A

  
Vice-Chairman

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