

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 20th day of May, 2003.

Original Application No. 245 of 1998.

Hon'ble Mr. Justice R.R.K. Trivedi, Vice-Chairman.
Hon'ble Mr. S.K. Agarwal, Member- A.

Gandharv Singh Pal S/o Sri Data Ram a/a 32 years
Working as Clerk, Railway Mail Service, Kashganj,
Bareilly Division, Bareilly.

.....Applicant

Counsel for the applicant :- Sri A. Shukla
Sri V.K. Tewari

V E R S U S

1. The Union of India through the M/o Post and Telecommunication, Dak Bhawan, New Delhi.
2. Superintendent, Railway Mail Service, Bareilly Division, Bareilly.
3. Head Record Officer, Railway Mail Service, B.L. Division, Kasganj, Bareilly.

.....Respondents

Counsel for the respondents :- Km. Sadhna Srivastava

O R D E R (oral)

By Hon'ble Mr. Justice R.R.K. Trivedi, Vice-Chairman.

By this O.A filed under section 19 of the Administrative Tribunals Act, 1985, the applicant has challenged the order of dismissal from service dated 02.02.1998 passed by respondent No. 2, Superintendent, Railway Mail Service, Bareilly Division on conclusion of disciplinary proceedings.

2. The facts of the case are that applicant Sri Gandharv Singh Pal was appointed as Sorting Assistant in R.M.S, Bareilly Division, Kasganj. He produced bogus marksheets No. 1360 with Roll Number 11152 of Uttar Madhyama Examination, 1985 issued



by Sumpurna Nand Sanskrit Viswavidyalaya, Varanasi. This bogus marksheets was allegedly submitted by the applicant in order to secure appointment at the time of recruitment as Sorting Assistant in the year 1990-91. The applicant was served with memo of charge dated 13.11.1995 which was received by him on 21.11.1995. The applicant filed reply and denied the charges vide letter dated 26.12.1995. The usual enquiry took place. The Enquiry Officer found the applicant guilty of the charges. The disciplinary authority after hearing applicant passed the order of dismissal on 02.02.1998.

3. Km. Sadhna Srivastava, learned counsel for the respondents submitted that this O.A is not legally maintainable as the applicant has not availed the statutory right of appeal against the impugned order of dismissal and this O.A is liable to be dismissed on this ground.

4. Sri V.K. Tewari, learned counsel for the applicant on the other hand submitted that applicant was not properly advised and hence he could not file appeal and directly approached this Tribunal. It is also submitted that he had filed M.A No. 2357/98 and prayed not to press this O.A and he may be granted liberty to file fresh O.A after availing statutory remedy of appeal but that application unfortunately was not pressed properly and this O.A continued to remain pending. Learned counsel for the applicant has further submitted that applicant is interested in filing appeal and he may be given liberty to avail the statutory remedy of appeal.

5. Considering the facts and circumstances of the case and contents of M.A No. 2357/98, in our opinion, the applicant may be granted chance to avail the remedy of appeal where he shall get opportunity to press all questions of

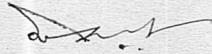


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fact and law to prove himself, ^{inocent} of,

6. For the reasons stated above this O.A is disposed of finally with liberty to applicant to file an appeal before the appellate authority within one month from today. If the appeal is so filed, it shall be considered and decided on merit treating the same within time. As the matter is very old, the appellate authority shall decide the appeal within period of six weeks from the date of filing of appeal alongwith copy of this order.

7. There will be no order as to costs.


Member- A.


Vice-Chairman.

/Anand/