

Reserved

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD**

**Original Application No. 1295 of 1998**

Allahabad this the 29<sup>th</sup> day of Oct, 2004

**Hon'ble Mr. A.K. Bhatnagar, Member (J)**  
**Hon'ble Mr. S.C. Chaube, Member (A)**

Mishri Lal, aged about 48 1/2 years, S/o Shri Videshi, R/o Village and Post Sikri, Tehsil Khalilabad, District Sant Kabirnagar employed as Ex.E.D.M.P. Sikri in the District Sant Kabirnagar.

Applicant

By Advocate Shri J.M. Sinha

Versus

1. Union of India through the Secretary, Ministry of Communication, Department of Posts, Dak Bhawan, New Delhi-110001.
2. Post Master General, Gorakhpur Region, Gorakhpur.
3. Superintendent of Post Offices, Basti Division, Basti.
4. Sub Divisional Inspector of Post Offices, Khalilabad, Sub Division, Khalilabad, District Sant Kabirnagar.

Respondents

By Advocate Shri S.C. Tripathi

**ORDER**

**By Hon'ble Mr.A.K. Bhatnagar, Member(J)**

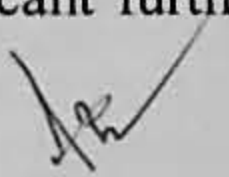
By this O.A. applicant has prayed for quashing the orders passed by respondent no.2, 3 and 4( annexed as annexureA-1, A-2 and A-3

respectively ), setting the punishment aside and consequently to allow full service benefits since the applicant was put off from duty.

2. The case in brief as per the applicant is that while working as E.D.M.P. in Branch Post Office Sikri, he was served with a charge sheet vide Memo No.F/Sikri/95-96/DP dated 15.09.1995(AnnexureA-4) under Rule 8 of P & T(Conduct & Service) Rules, 1964. The applicant denied the charges. Thereafter, Enquiry Officer and Presenting Officer were appointed on 28.09.1995. The Enquiry Officer concluded the inquiry and found the charges proved. A copy of the inquiry report was sent to the applicant to submit his representation. The applicant submitted his representation on 24.07.1996. The disciplinary authority after considering the representation of the applicant, inquiry report and other materials available on record, has imposed the penalty of dismissal from service vide order dated 31.07.1996(annexureA-3). The applicant has challenged the order of disciplinary authority by filing an appeal before the appellate authority, which has been rejected by the appellate authority vide order dated 22.01.1997. The applicant thereafter filed a revision petition to the Post Master General, Gorakhpur, which was also rejected vide order dated 31.08.1998(annexureA-1).

3. Heard learned counsel for the parties and perused the pleadings available on record.

4. Learned counsel for the applicant submitted that the Enquiry Officer held the charges proved placing reliance on the statement made by the P.W.I. during the preliminary inquiry, although it was a case of no evidence to support any charges against the applicant. He further submitted that the witnesses who attended the inquiry and faced cross-examination disowned their alleged statements, stated to have been recorded during the preliminary inquiry, even though the Enquiry Officer relied on the statement taken earlier at the stage of preliminary inquiry. Counsel for the applicant further contended that in the instant






case, Enquiry Officer has awarded punishment on mere suspicion while there was no evidence worth reliable in the present case. Learned counsel further submitted that appellate order is also non-speaking and cryptic one, which deserves to be quashed outright. Learned counsel finally submitted that present case was concocted, conspired and connived at the behest of respondent no.4 who is the appointing authority of the applicant. Learned counsel has placed reliance on **1999 S.C. L & S 429 Kuldeep Singh Vs. Commissioner of Police and others** in support of his claim, wherein it has been held by the Hon'ble Supreme Court that Court cannot sit in appeal over those findings and assume the role of the appellate authority but this does not mean that in no circumstances can the Court interfere. The power of judicial review available to the High Court as also to this Court under the Constitution takes in its stride the domestic enquiry as well and it can interfere with the conclusions reached therein if there was no evidence to support the findings or the findings recorded were such as could not have been reached by an ordinary prudent man or the findings were perverse or made at the dictates of the superior authority.

6. Learned counsel for the respondents resisting the claim of the applicant filed the counter affidavit, which was followed by the rejoinder, filed by the applicant.

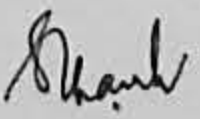
7. Learned counsel for the respondents submitted that the Enquiry Officer after careful examination of the oral evidence adduced and documents produced in course of open inquiry, has held the charges levelled against the applicant as proved beyond doubt. It is also an admitted fact that the applicant has confessed his guilt and thereafter deposited Rs.9000/- in the department.

8. It is well settled preposition of law that the Court or Tribunal cannot reappraise the evidence and cannot reduce the quantum of punishment unless it shocks the conscious of the Court/Tribunal, as held



by the Hon'ble Supreme Court in the case of **B.C.Chaturvedi Vs.Union of India and Others J.T.1995(8) S.C.65.**

9. We have carefully gone through the punishment order passed by the disciplinary authority, and orders passed by appellate authority as well as by the revisional authority. In this case we find that full and open inquiry was held by the Enquiry Officer in which applicant was given full opportunity to cross examine the witnesses and after careful consideration of the evidence, the disciplinary authority awarded punishment to the applicant. We do not find any illegality in the orders passed by the disciplinary authority as well as by the appellate authority. We have gone through the order passed by the revisional authority and find that the revisional authority has passed a very detailed and reasoned order considering all the points raised by the applicant in his petition. Therefore, no intervention is called for. The case law cited by the applicant's counsel in support of his claim is not of any help to the applicant and is distinguishable. Accordingly, O.A. is dismissed being devoid of merit with no order as to cost.

  
Member (A)

  
Member (J)

/M.M./