

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 23rd DAY OF MAY, 2002

Original Application No. 1404 of 1998

CORAM:

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

HON.MR.C.S.CHADHA, MEMBER(A)

Narendra Singh, S/o Shri Asharfi Lal  
Extra Departmental Delivery Agent,  
Post office Kisai Jagdishpur  
District Farrukhabad

... Applicant

(By Adv: shri D.P.Singh)

Versus

1. Union of India, Secretary  
Post and Telegraph Department  
Dak Tar Bhawan, Parliament street  
New Delhi.
2. Sub-Divisional Inspector(Post offices)  
Chhigramau, Fatehgarh(Farrukhabad)
3. Inspector Post Office, Chhigramau,  
Fatehgarh(Farrukhabad)
4. Post Master General, Kanpur  
Region, Kanpur.

... Respondents

(By Adv: Shri Satish Chaturvedi)

O R D E R(Oral)

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

By this application u/s 19 of A.T.Act 1985, applicant has prayed to quash the order dated 18.3.1998 by which applicant has been put off duty and also the order dated 10.8.1998(Annexure 1A) by which applicant has been given a show cause notice as to why the penalty of removal from service may not be imposed against the applicant. The notice has been given under Rule 16 of EDAs(Conduct & Service) rules 1964.



The facts of the case giving rise to this application are that applicant was appointed as EDDA on 1.6.1984 in post office Chhibramau, district Farrukhabad. The applicant was served with a memo of charge under Rule 8(hereinafter referred to Rules) dated 2.7.1996 as to why he may not be punished for concealing the fact that applicant was in jail from 1.7.1995 to 16.8.1995, which he did not inform and obtain any leave. The applicant submitted his reply on 8.7.1996. After consideration of the explanation of the applicant, by order dated 10.7.1996 applicant was awarded a punishment of censure and he was warned to be careful in future. This order became final. However, respondent no.4 issued a show cause notice dated 10.8.1998 as to why the punishment may not be enhanced and applicant ~~may~~ be removed from service. Reply to this show cause notice was submitted by the applicant on 20.8.1998(Annexure 5). Another order was passed on 18.3.1998 putting the applicant off the duty without disclosing any reasons. The grievance of the applicant is that since 1998 applicant is being kept of the duty no orders have been passed on the explanation submitted by the applicant. It is also submitted that the alleged show cause notice dated 10.8.1998 was without jurisdiction as the maximum period allowed under Rule 16 is six months. He has relied on the provisions contained in Rule 16. It is submitted that the entire proceedings against the applicant are without authority and are liable to be quashed. The applicant is being unnecessarily harassed.

Shri Pankaj Srivastava, holding brief of Shri Satish Chaturvedi, counsel for the respondents on the other hand, submitted that explanation of the applicant has

*(Signature) I, Pankaj Srivastava, have said that*

been received and action is being taken on the same. In para 22 of the counter it has been said that the representation of the applicant dated 20.8.1998 in reply to the show cause notice was received on 25.9.1998 and it is under consideration. The learned counsel has submitted that the OA filed by applicant is premature and he is not entitled for any relief.

We have carefully considered the submissions of the counsel for the parties. The crucial question for decision in this case whether the show cause notice dated 10.8.1998 issued by Post Master General, respondent no.4 is within time as provided under Rule 16 of the Rules. The proviso to first Rule 16 provides the period of limitation for exercising the power of revision which reads as under:-

" provided that no such case shall be re-opened under this rule after the expiry of six months from the date of the order to be revised, except by the Central Govt or by the Head of the circle or by Post Master General (Region) and also before the expiry of the time limit of three months prescribed for preferring appeal."

Thus, from the reading of the aforesaid provision it is clear that the maximum period of limitation provided is six months from the date of the order to be revised. In the present case earlier order of punishment was passed on 10.7.1996. Six months period expired on 10.1.1997, whereas the notice in the present case has been issued on 10.8.1998 i.e. more than a year after the expiry of the limitation. The action on the part of the revising authority is thus without jurisdiction and being barred by limitation.

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The counsel for the respondents could not place any other provision on which basis the notice issued after such a long delay <sup>could</sup> be justified. In our opinion, the applicant is entitled for relief.

For the reasons stated above, this OA is allowed. The orders dated 18.3.1998(Annexure 1) and order dated 10.8.1998(Annexurel-A) are quashed. The applicant shall be entitled to be reinstated on the post with all consequential benefits. However, the applicant will be entitled for only 50% of the wages. The order shall be implemented within a period of three months. No order as to costs.



MEMBER(A)

VICE CHAIRMAN

Dated: 23rd May, 2002

Uv/