

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 22nd day of Nov. 2001.

CORAM : HON. MR. S. DAYAL, A.M.  
HON. MR. RAFIQUDDIN, J.M.

O.A. NO. 1306 of 2001.

1. Arun Kumar Tripathi s/o Sri Triveni Prasad Tripathi r/o  
Village and P.O. Khairabad, (Maunath Bhanjan), Azamgarh.  
..... Applicant.

Counsel for applicant : Sri K.K. Tripathi.

Versus -

1. Union of India through Secretary Ministry of Communication,  
Department of Post, New Delhi.  
2. Chief Post Master General UP at Lucknow.  
3. Senior Superintendent of Post Offices, Distt. Azamgarh.  
4. Director Postal Services, Gorakhpur Division, Gorakhpur.

..... Respondents.

Counsel for respondents : Sri R.C. Joshi.

ORDER (ORAL)

BY HON. MR. S. DAYAL, A.M.

This application has been filed u/s 19 of the  
Tribunal Act 1985 for setting aside the order dated 24.4.01  
passed by the Director Postal Services, Gorakhpur. A further  
direction is sought to redress major punishment which are  
instituted against the applicant in service.

2. We have heard Sri K.K. Tripathi, Counsel for the  
applicant and Sri R.C. Joshi, Counsel for respondents at the  
time of admission.

3. We find from Annexure-III, which is the order of  
the Tribunal that the applicant, who was working as Extra  
Departmental Branch Post Master, Khairabad was removed from  
the service vide order dated 30.12.89. The charge-sheet,  
which was served on the applicant was that the applicant, who  
was working as Extra Department Branch Post Master, failed

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to deposit Rs.205/- in the account of the post office. He also failed to deposit Rs.250/- received from Smt. Durgawati Devi in the Govt. account. The applicant also failed to deposit Rs.185/- in the Govt. account. The applicant was found guilty of charge No.2 and was exonerated on charge Nos. 1 & 3. The disciplinary authority have ordered the punishment of removal, which was maintained by the Revisional authority. It was represented before the Tribunal in O.A. 1613/92 that the applicant was proceeded against u/s 409 of IPC and by order dated 31.8.98 of the criminal court, the applicant had been acquitted of the charge. Therefore, on that basis, the punishment awarded to the applicant has already been re-examined by a different bench of this Tribunal and the contention of the applicant was not found acceptable.

4. The applicant had also contended in the said O.A. No.1613/92 at the time of its hearing that the punishment awarded to the applicant was excessive. It was held that the matter of awarding of punishment falls within the purview of Administrative Authority and the Tribunal cannot go into the question of quantum of punishment. However, the applicant was allowed to file a representation on the issue of quantum of punishment and the Respondent No.4 was directed to consider and decide the same. We find from the impugned order in this O.A. that the representation of applicant has been considered and decided. The Director of Postal Services has considered the issue raised by the applicant in his representation. He raised the same issue, which were raised before the Tribunal earlier and was overruled by the Tribunal. The Director, Postal Services did not find any ground for reducing the punishment of removal.

5. The Counsel for applicant has placed before us the judgement of the Allahabad High Court in Bhagwat Charan

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Vs. State of UP and Others reported in 1978 ALJ Page 305.

It has been held by the Allahabad High Court that in a situation where the accused has been honourably acquitted by the criminal court by the departmental proceedings on the basis of same charges, could not be held.

6. We find that this judgement is not applicable to the facts of this case as the charges in the disciplinary proceedings were not identical. The applicant was charged for not depositing the amount received from depositors in Govt. account within the prescribed time, while the criminal case against him was for misappropriation.

7. Under the circumstances, we find no reason to interfere in the order passed by the Director of Postal Services on the representation of the applicant. The application stands dismissed. No order as to costs.

*Ranjan*

J.M.

*Am*

A.M.

Asthana/