

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH,
ALLAHABAD.

ALLAHABAD THIS THE 15TH DAY OF DECEMBER, 2004.

ORIGINAL APPLICATION NO. 72 OF 2001.

HON'BLE MR. D.R. TIWARI, MEMBER-A.

S.A. Moid S/o Sri S. Tauhid Ali, Head Post Office
Colony, Civil Lines, Azamgarh, presently posted as
Steno to SSPOs, Azamgarh.

.....Applicant

Counsel for the applicant :- Sri Pankaj Lal

V E R S U S

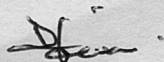
1. Union of India through the Director General of
Post & Telegraph,
New Delhi.
2. Director General of Posts, Janpath, New Delhi.
3. Chief Post Master General, U.P. Lucknow.
4. Post Master General, Gorakhpur Region,
Gorakhpur.
5. Director, Postal Services, Gorakhpur.
6. Sr. Superintendent Of Post Offices, Azamgarh.
7. Sri A.W. Beg, Additional Director, Postal
Services,
Gorakhpur Region, Gorakhpur (now retired).

.....Respondents

Counsel for the respondents: - Sri S.N. Mishra, brief
holder of Sri Rajeev
Sharma.

O R D E R

By this O.A filed under section 19 of the
Administrative Tribunals Act, 1985, the applicant has
prayed for the following relief's: -



- I. this Tribunal may be pleased to issue order or direction quashing the memo No. E/S.A. Moid/DP/98 dated 25.09.1999 (Annexure-2A) as well as 08.03.2000.
- II. this Tribunal may be pleased to issue order or direction to stay the operation of impugned order dated 25.09.1999 as well as 08.03.2000 during the pendency of the original application.
- III. this Tribunal may be pleased to issue order or direction calling for records such as filed No. STA/XA-12/33/1 from regional office, Gorakhpur and file No. B/S.A.Moid/DP/98 from SSPOs, Azamgarh.

2. The facts of the case, in brief, are that the applicant was served with memo of charge vide memo-dated 09.02.1999 (Annexure-9). On receipt of the charge sheet, the applicant by a letter demanded a copy of the enquiry report (Annexure-10). He was directed that he could inspect the necessary papers of complaint and enquiry report. Accordingly he attended ^{to} the R.O on 13.05.1999 and was shown the copy of complaint dated 05.03.1995 addressed to Minister of Communication but the record regarding enquiry report was not shown to him and he was told that it was not necessary. The applicant by letter-dated 02.06.1999 requested the SSPOs, Azamgarh that in this connection a thorough and detailed enquiry may be held before punishing the applicant. He denied all the allegations made against him and he accepted that he has written

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a letter to Communication Minister and the facts mentioned in that letter are correct and true i.e. a matter to be enquired into a detailed enquiry under rule ~~15~~¹⁴ of CCS (CCA) Rules, 1965. However, this request of the applicant was not acceded to and the applicant was served with the punishment order dated 25.05.1999 (Annexure-2A) and the punishment of withholding the next one increment for three years without cumulative effect was imposed. The applicant filed an appeal against this punishment order and the Appellate Authority on consideration of the relevant facts substituted the punishment and the punishment was modified by the order of withholding of one increment for a period of two years without cumulative effect. This order as well as the order of punishment has been assailed on various grounds mentioned in para 5 of the O.A. The basic grounds of challenge is that inspite of demand for a specific enquiry under rule 14 of CCS (CCA), Rules this was not agreed to by the respondents. The second ground is that the enquiry report was not supplied to the applicant on the ground it was irrelevant. The learned counsel for the respondents has submitted that the enquiry under rule 16 was not necessary and it was depend on the formation of the opinion of the competent authority. Learned counsel for the respondents argued that no

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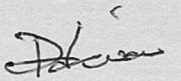
enquiry was conducted with regard to the allegations made by the applicant in his letter to the Minister of Communication for State. Hence it was not possible to furnish a copy of the enquiry.

3. I have considered rival submissions made by the learned counsel for the parties and perused the pleadings as well. The crucial question, which arises for decision, is ~~the~~ validity of the impugned orders passed by the respondents. In this connection it may be stated that rule ~~16(B)~~ ^{16(1)(B)} provides that once the disciplinary action is taken under rule 16 and if the Disciplinary Authority forms an opinion that the enquiry as per the provision of rule 14 of CCS(CCA) Rules is necessary, he could order this and the formation of the opinion for holding enquiry under rule ~~14~~ ¹⁶ is dependent on the fact that the other party has contested the allegations. Hon'ble Supreme Court in the case of O.K. Bhardwaj has also decided that once the factual position is contested, it is necessary for the disciplinary authority to hold an enquiry under rule 14 of CCS (CCA) Rules. Moreover Government of India instruction No. 1 under rule 16 of CCS (CCA) Rules also provides that holding of an enquiry when requested by the delinquent. This order has been issued by the Government of India

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vide its letter No. 11012/18/85/Estt.(A) dated 20.10.1985. In view of the instruction of the Government of India and the decision of Hon'ble Supreme Court in case of O.K. Bhardwaj (Supra), the proper procedure has not been followed by the respondents. In this particular case the applicant has demanded the detailed enquiry by letter-dated 02.06.1999. Under these circumstances the impugned orders are liable to be quashed.

4. In the result the O.A succeeds on merit and the impugned orders are quashed with liberty to the respondents to initiate the fresh disciplinary proceedings as per the provisions prescribed under CCS(CCA) Rules and the instruction there under. No costs.


Member-A.

Anand/