

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD.

Dated : This the 11th day of March 2003.

Original Application no. 843 of 2001.

Hon'ble Maj Gen K K Srivastava, Member-A
Hon'ble Mr A K Bhatnagar, Member-J

Aqbal Samani, s/o Sri Murtaza,
R/o Vill and Post Gulharia Bazar,
Distt. Gorakhpur.

... Applicant

By Adv : Sri S.W. Ali

Versus

1. Union of India through its Director Postal Services, Gorakhpur Indian Postal Department.
2. Additional Superintendent of Post Offices, Distt. Gorakhpur.

... Respondents

By Adv : Sri P Krishna

O R D E R

Hon'ble Maj Gen K K Srivastava, Member A.

In this OA, filed under section 19 of the A.T. Act, 1985, the applicant has challenged the punishment order dated 9.2.2000 awarding punishment of dismissal. He has also challenged the appellate order dated 15.1.2001 confirming the punishment. The applicant has prayed that the punishment order dated 9.2.2000 (Ann 3) and the appellate order dated 15.1.2001 (Ann 4) be quashed and the respondents be directed to reinstate the applicant with full back wages.

2. The facts, in short, giving rise to this OA are that the applicant was working on the post of Extra Departmental Branch Post Master (in short EDBPM), Gulharia, Gorakhpur. He proceeded on leave from 1.4.1997 giving charge to his substitute one Sri Ram Dhani Gupta. When the applicant reported for duty

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on 27.9.1997, the charge of Branch Post Office was not handed over to him by his substitute. He approached authorities, but he was not allowed to function on his original post. He was served with the charge sheet on 13.2.1998. The applicant has denied its timely receipt and ultimately he gave his ~~receipt~~ ^{receipt} ~~in~~ ⁱⁿ reply on 13.9.1999. The inquiry was conducted and the applicant participated in the same. The applicant was served with a copy of enquiry report dated 23.8.1999 on 25.8.1999 and he submitted his reply on 13.9.1999. On ~~receipt~~ ^{receipt} ~~in~~ ⁱⁿ ~~of~~ the same, the disciplinary authority passed the punishment order dated 9.2.2000, dismissing the applicant from service. The applicant filed appeal before Director Postal Services (in short DPS), Gorakhpur, who rejected the appeal by order dated 15.1.2001.

3. Learned counsel for the applicant submitted that the applicant was not allowed to join when he reported for duty on 27.9.1997. He has been ~~falsely~~ ^{falsely} implicated in the cases ^{of} misappropriation and the inquiry has not been conducted in proper manner. The Enquiry Officer did not consider the ground advanced by the applicant and the inquiry more or less has been conducted in an arbitrary manner. The DPS i.e. appellate authority also did not consider the grounds in his appeal and, therefore, both the orders i.e. punishment order as well as appellate order are liable to be quashed. Learned counsel for the applicant finally submitted that the punishment of dismissal is too harsh and disproportionate.

4. Resisting the claim of the applicant, Sri P Krishna, learned counsel for the respondents has submitted that the

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applicant was given full opportunity to defend himself. The punishment order as well as appellate order are detailed and speaking orders and all the points raised by the applicant in his appeal have been considered and replied by the appellate authority in the appellate order dated 15.1.2001.

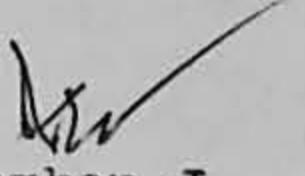
5. We have heard learned counsel for the parties, considered their submissions and perused records. We have also gone through the impugned punishment order dated 9.2.2000, appellate order dated 15.1.2001 as well as charge sheet.

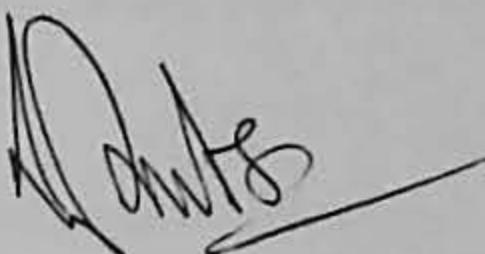
6. It has been contended by the respondents in para 3 of the counter affidavit that the leave of the applicant was not sanctioned. The ~~pertinent~~ question before us is whether the applicant is a fit person to ~~be~~ retained in service or not. On perusal of charge sheet it appears that the charges are of very grave nature involving the integrity of the applicant. The misappropriation, whether ~~the~~ permanent or temporary by a Govt. Servant cannot be viewed leniently. The inquiry was conducted in accordance with law. The applicant was afforded full opportunity to defend himself and the charges against the applicant have been found to be proved by the Enquiry Officer. Perusal of the appellate order dated 15.1.2001 passed by DPS Gorakhpur does not leave any doubt in our mind that the points raised in appeal have ~~not~~ been considered by the appellate authority. The appellate authority has applied his mind and then passed the appellate order. A person of questionable integrity like that of the applicant is not a fit person to be ~~retained~~ in the Post Office. The impugned punishment

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order and the appellate order do not suffer from any error of law and there is no ground for us for interference.

7. For the reasons stated above, the OA is dismissed being devoid of merit. There shall be no order as to costs.


Member J


Member A

/pc/