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RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD**

ALLAHABAD this the 15th day of November, 2006.

**HON'BLE MR. JUSTICE KHEM KARAN, V.C.
HON'BLE MR. P.K. CHATTARJI, MEMBER-A**

ORIGINAL APPLICATION NO. 1422 OF 2005

R.R. Mishra, S/o Sri Raj Nath Mishra, R/o Village Sandahan, P.O. Mani Kalan, District Jaunpur U.P. Ex-Postal Assistant, Head Post Office, Jaunpur.

.....Applicant.

V E R S U S

1. Union of India through Secretary Ministry of Post & Telecommunication, New Delhi.
2. Chief Post Master General, U.P. Circle, Lucknow.
3. Director, Postal Services, Allahabad.
4. Superintendent of Post Offices, Jaunpur Division, Jaunpur.

.....Respondents

Present for the Applicant:

Sri H. Kumar

Present for the Respondents:

Sri S. Singh Shaurabh Srivastav.

*Conceded vide
order of date-
an order sheet*

O R D E R

17.11.06
BY P.K. CHATTERJI, MEMBER-A

The applicant who was working as Postal Assistant-II at Jaunpur Head post Office was proceeded against under Rule 14 of CCS (CCA) Rules 1965 on 1.1.2001. He was working at Jaunpur Head Post Office from 2.6.1997, and on 6.5.1999 he was suspended on the charge of irregularity committed in issuing and payment of Money orders by the respondents. There were six articles of charges in

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the Chargesheet, which has been filed as Annexure-3 to the O.A.

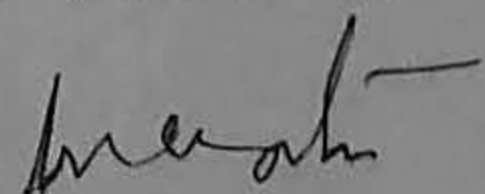
2. The applicant submitted a representation denying the charges levelled against him and an enquiry was held as per CCS (CCA) Rules. The Enquiry Officer, who submitted his report before the disciplinary authority on 4.10.2003, found article nos. 1 and 2 of the charges proved, while charge nos. 3, 4, 5 and 6 were found not proved. On the basis of the enquiry report and on the basis of his own findings, the disciplinary authority i.e. respondent no.4 issued punishment of compulsory retirement from service vide memo dated 15.6.2004. Being aggrieved by the order dated 15.6.2004, the applicant preferred an appeal on 21.6.2004 before the respondent no.3. However, appellate authority while considering the appeal came to the conclusion that the punishment of compulsory retirement was not adequate to the lapses committed by the applicant and after issuing a show cause notice for enhancement of punishment, finally imposed the punishment of dismissal from service upon the applicant vide memo dated 24.1.2005. Thereafter, the applicant filed a Revision Petition before the Chief Post Master General, U.P. Circle, Lucknow, which has not yet been decided by the authority. In this way, the applicant has impugned punishment order dated 15.6.2004 and the appellate order dated 24.1.2005 on the following grounds:-

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- (a) Punishment was unjust and disproportionately heavy because all the charges were not found to be proved by the Enquiry Officer.
- (b) As all the charges were found not proved by the Enquiry Officer, the right course of action for the disciplinary authority was to have afresh enquiry conducted in the matter.
- (c) The applicant was denied full opportunity of hearing as many of the material evidence with which the charges were sought to be substantiated, were not provided to him.
- (d) The appellate authority enhanced the punishment unreasonably and unjustly without any evidence. More-over, such enhancement was uncalled for, when only two out of the six charges were found to be proved.
- (e) The applicant also avers that he was not functioning as Money Order Supervisor at the Post Office as stated by the respondents.

3. The respondents have categorically denied the allegations of the applicant by saying that the charges against the applicant were serious in nature as it involved lack of integrity. They are also of the view that it is not at all necessary that in the disciplinary proceedings all the articles of charges have to be proved. The disciplinary authority has to take a decision depending upon the extent of



evidence and proof and the nature of the charges, which was found to be substantiated. In this case both the article nos. 1 & 2 relate to lack of integrity and both of these were substantiated and for lack of integrity dismissal from service is not disproportionately heavy punishment. The applicant was interested with the job which involved payment of money and, therefore, he was expected to have absolute integrity and impeccable honesty. However, by his conduct he belied the faith reposed on him by the respondents and so the appellate authority was right in enhancing the punishment. On the point made by the applicant that he was not authorized to do the job of Money order Supervisor, the respondents have denied it and stated that as per memo of distribution of work, the Postal Assistant ~~U. S.~~ was required to perform the job of Money order Supervisor.

4. The respondents have also categorically denied that most of the material evidence was not provided to the applicant. This aspect was duly dealt with by the appellate authority, in para 5.4 of the appellate decision wherein it is stated that only some of the documents which were not available, could not be provided to the applicant. These, however, did not stand in the way of proving the charge nos. 1 & 2 against the applicant. The learned counsel for the respondents stated during the course of hearing that as all the documents were not made

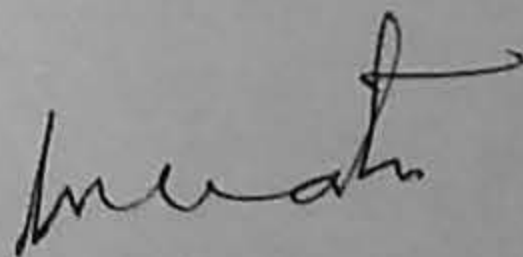
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available, the Enquiry Officer perhaps could not prove the article of charge nos. 3 to 6. However, in his view, the most crucial article of charge nos. 1 & 2 were proved and these were adequate to justify the punishment, which has been imposed.

5. We have gone through the record and applied our mind carefully to the issues. Time and again the Apex Court has decided that it is not for the Court or the Tribunal to interfere into the disciplinary proceedings. Nor should Court or the Tribunal interfere with the quantum of punishment, unless the decision of the disciplinary authority is so perverse as to shock conscious of the Court/Tribunal. What the Tribunal/Court is required to satisfy is that the procedure laid down in the disciplinary action has been adhered to and there has been no breach of rules.

6. In this case, we find that the disciplinary proceedings were conducted as per Rules of CCS (CCA) Rules 1965. The Enquiry Officer provided reasonable opportunity of hearing to the applicant for defence. Neither the disciplinary authority, nor the appellate authority exceeded his jurisdiction. The appellate authority was well within its powers to revise the punishment and for that, requisite show cause notice was also issued, therefore, we do not find any infirmity as far as disciplinary proceedings are concerned. The punishment of dismissal from service indeed is harsh punishment. But for the reasons that this was awarded for causing pecuniary loss to the employer for a huge amount of Rs. 23 lacs by personal involvement showing clear lack of integrity, the punishment appears to be justified.

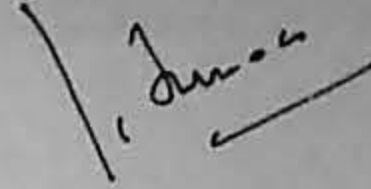


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7. In view of the above, we do not find any reason to interfere with the decision for which the O.A. is not allowed. No costs.



MEMBER-A



VICE CHAIRMAN

GIRISH/-