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CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

REGISTRATION NO.2 of 1986

Parash Nath(II) ... Applicant.

Versus

Senior Superintendent R.M.S.'G'
Division Gorakhpur and another... Respondents.

Hon'ble D.S.Misra-Member(A)

Hon'ble G.S.Sharma-Member(J)

(By Hon'ble D.S.Misra-Member)

This is an application under section 19 of the Administrative Tribunals Act against the order dated 30.3.1985 passed by Senior Superintendent R.M.S.'G' Division Gorakhpur imposing the punishment of stoppage of next increment for a period of three years.

The facts of the case are that the applicant was given a chargesheet dated 11.1.1985 by respondent no.1 alleging that the applicant while working as Head Sorting Assistant in G (II) Out Station, dated 21.1.1984, allowed four persons in an unauthorised manner to travel in the Postal Van which was found by respondent no.1 during the surprise checking of the Postal Van. In his reply dated 22.1.1985, the applicant denied the charges and pointed out that the respondent no.1 made no surprise check of the Postal Van at Bhatni as alleged in the chargesheet. On receipt of the said reply, the respondent issued a corrigendum to the memo of charges on 14.2.1985 in which the word Bhatni appearing in statement of imputation against the applicant in the fifth line, was corrected to read as Mau instead of Bhatni. In his reply dated 22.3.1985, the applicant

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reiterated his earlier ^{denial} ~~statement~~ and challenged the correction made in the memo of charges by respondent no.1. By an order dated 30.3.1985 respondent no.1 imposed upon the applicant the punishment of stoppage of next increment for 3 years. The applicant submitted an appeal dated 24.5.1985 to Director Postal Services Allahabad, which was rejected by respondent no.2 vide his order dated 14.10.1985.

In reply the respondents stated that typographical error in the chargesheet dated 11.1.1985 was corrected by memo dated 14.2.1985 which was received by the applicant on 18.2.1985. It was further stated that at the time of preliminary inquiry, held on 20.11.1984, the applicant had agreed that some passengers were travelling in the II Class Compartment of the Postal Van. The applicant was also questioned about his failure to get the Postal Van vacated and his failure to issue any memo to Government Railway Police or to the Station Superintendent, or Railway Guard either at Bhatni, the starting point of the train or any of the intermediary sub station and the absence of any such action in his daily report. It was alleged that the order of punishment dated 30.3.1985 was made after investigating the matter, Photo copies of the daily report and the statements of the applicant recorded on 20.11.1984 have been filed as Annexures nos. 2 and 3 to the reply of the respondent. It was alleged that the order of punishment was passed by a competent authority in accordance with the C.C.A. Rules and the relevant Rules of the Post and Telegraph Manuals.

We have heard learned counsels for the parties. Learned counsel for the applicant laid great emphasis on the fact that the corrigendum dated 14.2.1985 correcting the place of inspection of the Postal Van from Bhatni to Mau was void ab initio, inoperative and illegal on the ground that it was

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issued after hearing the defence of the applicant and because it was signed by the deputy of respondent no.1, who did not hold any disciplinary powers and was not competent to do so. The applicant had challenged the validity of the corrigendum in his representation dated 22.3.1985 but the respondent no.1 did not pay any attention to his representation and imposed the punishment in an arbitrary manner against rules and principles of natural justice; secondly it was argued that the respondent no.1 acted as a prosecutor, as a witness, as well as a Judge, which is against rules and principles of natural justice; thirdly, it was argued by the learned counsel for the applicant that in spite of granting the request made by the applicant, an oral inquiry as required under Rule 16(1)(b) of C.C.S and C.C.A. Rules 1965 was not ordered ^{thereby} denying the applicant reasonable opportunity to defend his case properly; fourthly, it was also argued that the respondent no.1 had based ^{his} ~~the~~ findings on the failure of the applicant in writing daily report which did not figure in the memo of charges and the applicant was denied the opportunity to defend himself on this point.

Learned counsel for the respondents contended that the place of inspection of the Postal Van was a typographical error and the correction was made as soon as the error came to their notice. It is further contended that the applicant was given another opportunity to submit his defence and the correction of the typographical error was with the approval of respondent no.1 in writing. A photo copy of the noting on the file authorising correction of the error has been filed as annexure-1 to the reply. From a perusal of this note, it would be seen that no attempt has been made to deny the initial error and the steps taken for its correction have been admitted without any reservation. We are of the opinion that correction of such typographical error is a routine matter and its communication

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by his deputy does not constitute any irregularity or illegality as alleged by the applicant.

Regarding applicant's allegation that respondent no.1 was not fully competent to function as disciplinary authority as he was also acting as prosecutor and a witness in the case. Learned counsel for the respondents pointed out the provisions of Rule-50 of Post and Telegraph Manuals Vol. III. Extract of rules 50 and 51 of Post and Telegraph Manuals Vol. III was filed as Annexure-4 to the reply. Rule 50 reads as follows:

" The authority who conducts the preliminary inquiry into a case of misconduct e.t.c., of a Government servant will not be debarred from functioning as a disciplinary authority in the same case provided it has not openly given out its findings about the guilt of the accused official".

We are of the opinion that there was no illegality in respondent no.1 functioning as a disciplinary authority of the applicant.

Regarding holding of oral inquiry under rule 16(1) of C.C.A. and C.C.S. Rules, 1965, the respondents have filed a copy of the oral statement of the applicant recorded on 20.11.1984. A photo copy of this statement is available at annexure-3 to the reply. In his statement dated 20.11.1984 the applicant had accepted that unauthorised persons were occupying part of the Post^{al} Van even when the train started from Bhatni Railway Station. Learned counsel for the respondents pointed that under Rule 53 of the Post and Telegraph Manuals Vol., VII filed as annexure-7 to the reply, the procedure for taking charge of the Postal Van has been prescribed. The applicant had failed to follow the procedure. In his oral statement dated 20.11.1984, the applicant had failed to give any satisfactory explanation for his failure to make a report to the competent authority regarding the vacation of the Postal Van by unauthorised persons sitting there. He has stated that when he took charge of the Postal Van at 9 P.M. on 2.11.1984, there was no light in the Postal Van and some

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passengers were sitting there. He called the light-man who provided the light in a part of the Postal Van but did not provide light in the adjoining compartment in which some passengers were sitting. The excuse given by him for not taking necessary steps to ^{get} ~~take~~ the Postal Van vacated by unauthorised persons as the shortage of one mail man on duty is not convincing. In reply to the chargesheet, the applicant had denied the charge contained in the statement of imputations of misconduct, mentioned in the chargesheet and this was reiterated in his second reply dated 22.3.1985 also. This denial of the applicant is in direct contradiction to his statement dated 20.11.1984 in which he had accepted the occupation of part of the mail Van by ^{be} ~~an~~ unauthorised persons from Bhatni onwards. Taking into consideration the material on record, we are of the opinion that charge against the applicant is established on his own admission and it does not require any supplementary evidence. We are also satisfied that the procedure prescribed for imposing minor penalty under rule 16(1)(a) was followed by the disciplinary authority by giving the applicant reasonable opportunity of making such representation he may wish to make against the proposal.

Regarding the allegation of the applicant that respondent no.1 had introduced an extraneous matter of not writing the daily report in his findings without giving an opportunity, the respondents pointed out the remarks given by respondent no.1 on the main body of the form used by the Head Sorter for preparing his daily report. A copy of the daily report and the remarks made by respondent no.1 at the time of the inspection of the Postal Van dated 2.11.1984 has been filed as Annexure-2 to the reply. In the absence of any rebuttal filed by the applicant, it is just to presume that the applicant was aware of the remarks of respondent no.1 and it

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was for him to produce his defence in this regard. On the other hand, the respondents had filed extract of rule 27 of the Post and Telegraph Manuals Vol. II, at annexure-5 in which the duty of the Head Sorter in the matter of checking and submission of work-papers has been prescribed. Learned counsel for the applicant contended that the daily report was to be written only after the completion of the duty hours and the failure of the applicant in not having written any report upto the time of surprise checking by respondent no.1 did not constitute any irregularity. A perusal of Rule-27 of the Post and Telegraph Manuals Vol. II would show that while the detailed report could be prepared after the duty hours were over, the Head Sorter was required to keep rough note books. The rule also lays down that besides the Head Sorter, each sorter should have the work-papers for which he is responsible. The statement dated 20.11.1984 of the applicant clearly establishes the failure of the applicant to take necessary steps for the removal of unauthorised persons from the Postal Van either at Bhatni or at other stations between Bhatni and Mau where the surprise check was done. We are, therefore, of the opinion that the objection raised by the applicant is misplaced.

For the reasons mentioned above, we are of the opinion that order passed by the disciplinary authority is valid and is passed on the evidence on record. In the result, the application is dismissed without any order as to costs.

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MEMBER(A)

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MEMBER(J)

J. Singh.
5.8.1986.