

(12/4)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

Original Application NO. 804 of 1986

Krishna Mohan Lal Srivastava....

Applicant

Vs.

Sr.Suptd. of Post Offices, Gorakhpur
& Others.

Respondents

Hon'ble Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. A.B. Gorthi, Member (A)

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicant was Extra Departmental Branch Postmaster in the District of Gorakhpur was also required to perform the duties of Delivery Agent and Mail Peon. According to him on 18.6. 1982 an amount of Rs.400/- received in Deposit and Rs.400/- paid by withdrawals and due to rush of work pass Books with documents were taken away by the Accounts holders prior to entries of transactions in office records, though at the closure of office Rs.400/- automatically stood adjusted and the genuine mistake crept in not entailing moral turpitude. A confidential enquiry was made in respect of the same behind the back of the applicant. A chargesheet was issued to the applicant on 19.9.1984 and prior to that an F.I.R. was lodged against him on 15.3.1983 under Section 409 of I.P.C. and he was granted bail on 19.3.1983 and has been facing criminal case in the Court of L.C.C.(J.M.) III Gorakhpur. The applicant submitted his reply denying the charges against him and according to him the respondents ^{have} appointed one Sri Abdul Waheed as Inquiry Officer who was also accused in criminal case. The Inquiry Officer submitted his report and thereafter the applicant was dismissed from the services. The applicant filed a ^{departmental} appeal against the said dismissal order which too was dismissed.

2. The respondents have tried to justify their action and have stated that the Inquiry Officer had examined the applicant when he admitted to have delivered Insured letter dated 4.2.82 . It has been stated by the respondents that the ^{application forms of} withdrawals in respect of the A/Cs Nos. 455632 and 455309 for Rs.125/- each were not received nor these witnesses and documents were produced by the applicant before the Inquiry Officer. According to the respondents the Inquiry Officer had found the charge no.1 regarding non-deposit of Rs.400/- in postal account as proved but disagreed with the finding of charge no.2 as the documentary evidences were enough to establish the charges, and the disciplinary authority given his finding ordered for dismissal of the applicant.

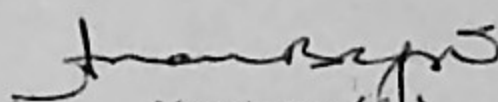
3. It has been stated on behalf of the applicant that the respondents have deprived the applicant from opportunity for defence. The inquiry took place behind the back of the applicant ^{and} without giving full opportunity to the applicant.

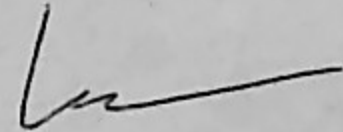
4. From the fact it is clear that the Inquiry Officer held the applicant guilty in respect of one charge and held not guilty in respect of the second charge, but the disciplinary authority disagreed with the findings of the Inquiry Officer in respect of the 2nd charges. The Disciplinary Authority without giving the Inquiry Officer's report to the applicant and without giving any suitable reason as to why he disagreed with the findings of the Inquiry Officer's in respect of the 2nd charge passed the punishment order. Thus the entire inquiry proceeding is ^{and it cannot sustained &} vitiated/as the respondents have denied the applicant from reasonable opportunity to defend himself which offends the principle of natural justice. Accordingly this application

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deserves to be allowed and the punishment order dismissing the services of the applicant dated 19.6.85 and the appellate order dated 12.11.86 are quashed. However it will be open in the matter for the respondents to take a decision/after the result of criminal proceedings which was pending against the applicant and they may hold a fresh inquiry after giving the copy of Inquiry Officer's report to the applicant in accordance with law.


Member(A)


Vice-Chairman.

7th May, 1992, Alld.

(sph)