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RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration T.A.No.585 of 1986
(O.S.No.1237 of 1985)

Thakur Prasad Tiwari Plaintiff

Versus

Union of India & Others Defendants.

Hon.D.S.Misra, A.M.
Hon.G.S.Sharma, J.M.

(By Hon.D.S.Misra, A.M.)

This is an original suit No.1237 of 1985 which was pending in the Court of Munsif I, Gorakhpur and has come on transfer under Section 29 of the Administrative Tribunals Act XIII of 1985. The plaintiff has prayed for quashing the order dated 13.2.1985 passed by the Senior Supdt. of Post Offices, Gorakhpur dismissing him from service.

2. The admitted facts of the case are that the plaintiff, while performing his duties as Extra Departmental Runner at Hemdhapur Post Office Pipraich, Gorakhpur was served with a chargesheet under Rule 8 of the Extra Departmental Agent (Conduct and Service) Rules for his unauthorised absence from duty on 8.11.1983 and employing his own son Naradmuni Tiwari in his place to exchange the mails without permission of the competent authority contravening the provisions of Rule 5 and 17 of the Extra Departmental Agent (Conduct and Service) Rules, 1964. In his reply

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dated 5.1.84 the plaintiff denied the charges levelled against him. An enquiry was conducted by Shri I.S. Srivastava, SPM Golaghar, Gorakhpur who submitted his report on 22.9.84. The disciplinary authority did not agree with the enquiry report and finding the charges fully approved against the plaintiff and exercising his powers under Rule 15 of the C.C.S.(CC&A) Rules, 1965 dismissed him from service vide his order dated 21.10.84. The plaintiff preferred an appeal against the order of his dismissal from service to the Senior Supdt. of Post Offices, Gorakhpur who rejected the plaintiff's appeal vide order dated 13.2.1985.

3. We have heard the arguments of the learned counsel for the parties. Shri K.C. Sinha, learned counsel for the defendants produced the original file containing the record of disciplinary proceedings against the plaintiff. The learned counsel for the plaintiff did not press the case on merit and stated that the punishment awarded was not commensurate with the gravity of the charge. He produced a copy of the judgement of this Tribunal in T.A. No.96 of in a similar case 1986 in which the penalty of removal from service was substituted by an order of reinstatement in service without benefit of any salary from the date of removal upto the date of reinstatement without any break in the continuity of service. We have considered this prayer of the learned counsel for the plaintiff and we are of the opinion that the plaintiff being a low paid employee deserves some

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consideration. We are also of the opinion that the penalty of dismissal from service for absence from duty for only one day to the plaintiff who had rendered more than 24 years of service with the defendants is not commensurate with the gravity of the charge. Accordingly we substitute the following punishment:-

The plaintiff will be reinstated in service within one month from the receipt of this order but he will not get any salary from the date of dismissal upto the date of reinstatement but there will be no break in the continuity of service. Parties shall bear their own cost.

2. L. Arun
Member (J)

B. P. Bhattacharya
Member (A)

Dated the 5th Jan., 1989.

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