

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration O.A. No.168 of 1986

Ram Kripal Applicant

Versus

Sr.Superintendent RMS 'G' Division
Gorakhpur & Others..... Respondents.

Hon.D.S.Misra, A.M.

Hon.G.S.Sharma, J.M.

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

This is an application under Section 19 of the Administrative Tribunals Act XIII of 1985 praying for quashing the punishment order dated 12.3.1984 passed by Senior Superintendent R.M.S., 'G' Division, Gorakhpur, respondent No.1 imposing the penalty of withholding increment for three years and ordering recovery of a sum of Rs. 5,040/- from the salary of the applicant.

2. The case of the applicant is that he was working as Day Mail Agent, Basti Railway Mail Service Office on 15.8.80; that respondent No.1 vide his order dated 21.1.83 served the applicant with a show cause notice under Rule 16 of C.C.S.(CC&A) Rules, 1965 proposing to take action against him for certain lapses detailed in the memo of charges contained in Annexure-E; that the applicant demanded from respondent No.1 documents and exhibits detailed in the

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document Annexure-5 to enable him to submit a reply to the memo of charges and inspite of several reminders and representations to respondent No.1 it was not supplied to him and an ex parte enquiry was held and the impugned punishment order was passed against him.

3. In the reply of the respondents it is stated that due to the negligence of the applicant a registered bag of Banshi Post Office closed by Basti Railway Mail Service dated 14.8.80 for Banshi Sub Post Office was received at Banshi on 16.8.1980 without the registered bag; that the registered bag in question containing 75 insured letters, 3 Insured Bundles, 35 registered letters and 19 high value Money Orders was lost. The Mail bag was closed by Basti Railway Mail Service at 11 A.M. on 15.8.80 and was despatched to the applicant who was performing the duty of Day Mail Agent, for onward transmission. The applicant left for his home at about 1430 hours leaving the key of the office lock in the table drawer of the Day Mail Agent which could be used in the opening of the mail cage where the bags were kept; that the miscreants had availed an opportunity of the absence of the applicant and took out the contents of the bag and the bags were reclosed; that this loss might have been avoided if the applicant had not absented from duty in unauthorised manner from 1430 hours to 1730 hours; that the applicant failed to submit his defence even after reminder; that the contention

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- 3 -

of the applicant that relevant documents were not shown to him is denied; that the applicant inspected the relevant documents on 11.1.84 but the applicant preferred an application for supply of copies; that the applicant was given second opportunity to inspect the documents but he did not avail of the same and has made non supply of certain documents for the sake of creating an issue; that the applicant failed to submit his reply and action as per Rule 16 of the C.C.S.(CC&A) Rules, 1965 was taken against him.

4. We have heard the learned counsel for the parties and have carefully perused the documents on record. The learned counsel for the applicant laid great emphasis on a practical demonstration of the procedure followed in closing the postal bag required to be sent from one post office to another post office. He also contended that besides the applicant some other persons were also responsible for the loss of the registered bag. The learned counsel for the respondents contended that there was no need for a practical demonstration and that the applicant was chargesheeted for absenting from duty in unauthorised manner from 1430 hours to 1730 hours and thereby providing opportunity to the Mail men for abstraction of the registered bag and thus he contravened the provisions of Rule 62, 153 and 162 of P & T Manual Volume V and Rule 36 of the P & T Manual Vol.VII and thereby violating Rule 3(i),(ii) and (iii) of

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- 4 -

CCS (Conduct) Rules, 1964. There is no denial by the applicant that he did not submit his reply to the chargesheet nor did he deny the allegation of the respondents that the applicant did not avail of the opportunity of inspecting and taking note of the relevant documents offered for inspection. The applicant has also not denied that he was absent without permission from 1430 hours to 1730 hours and that the key of the office lock was kept in the table drawer which could be used in the opening of the Mail Cage.

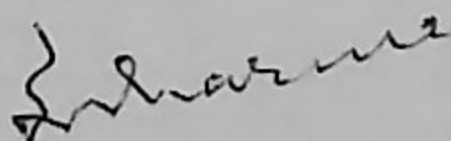
5. We have considered the contentions of the parties and we find that the loss of the valuable items contained in the Mail Bag was due to negligence of the applicant in performance of his duty as Day Mail Agent. The respondents have stated that they have taken suitable action against the two Mail men who were suspected of pilfering the Mail Bag and reclosing it in the absence of the applicant and easy availability of the key of the lock of the Mail Cage. The contention of the applicant that he could not submit his explanation to the chargesheet without getting copies of the documents demanded by him and denied to him by the respondents does not appear to be a satisfactory explanation. We are of the opinion that the applicant ^{himself} failed to avail of the opportunity of defence and he must suffer the consequences for the same.

6. The second contention of the applicant is that the action against the applicant has been taken

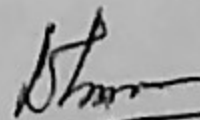
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on the direction of P.M.G. U.P. and the disciplinary authority has not acted independently but on the direction of P.M.G. U.P. In support of this contention the learned counsel for the applicant pointed out that the loss of the Mail Bag was discovered in August, 1980 but a chargesheet was served on the applicant in January, 1983. We have considered this contention and we are of the opinion that the P.M.G. U.P., being a higher supervisory authority has the power to direct a subordinate officer to institute disciplinary proceedings against officials found responsible for contravention of the departmental Rules and instructions. We find no merit in this contention of the applicant. We are also of the opinion that various other points raised by the applicant in this application are not relevant to the main issue under consideration and it is not necessary to discuss those points.

7. For the reasons mentioned above, we find no merit in the claim petition and the same is dismissed without any order as to cost.



Member (J)



Member (A)

Dated the 27th Jan., 1989.

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