

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

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Registration T.A. No. 902 of 1986  
( O.S. No. 522 of 1984 )

Chandra Prakash Verma     ...     ...     ... Plaintiff/  
Petitioner.

Versus

The Union of India, through the Secretary,  
Ministry of Communications ( P & T Department )  
Government of India New Delhi     ...     ...     Defendant /  
Respondent.

Hon. 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 initially appointed on 18.10.1966 as Telegraphman at the Central Telegraph Office, Kanpur and after training he was appointed as Telegraph Assistant in the year 1973 and subsequently, he was appointed as T/S Clerk w.e.f. 1.3.1978. In the year 1979, the applicant became Circle Secretary of the Employees Union and as Secretary of the Employees Union, he wrote a letter pointing out various illegality and made certain complaints. It was found that his letter contained intemperate language and due to this effect, a charge sheet was issued to the applicant on 14.3.1983. The applicant submitted his application demanding the supply of documents for inspection to enable him to make his representation, and ultimately he submitted his representation. Without holding any enquiry against the applicant, a punishment order <sup>was passed</sup> on 30.9.1983 withholding an increment for the

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of one year without affecting his future increments. The said order was served on the applicant on 17.10.1983. Earlier a second charge-sheet was also served on the applicant on 15.3.1983. The applicant submitted his reply to the same and refuted the allegations made in the charge. On the basis of this very charge, the applicant was awarded the penalty of Censure entry. Feeling aggrieved by the said punishment, the applicant filed a suit stating that no punishment could have been awarded to him because the letter ~~which~~ was written by him was not even his personal capacity but being the president of the Employees Union, it became his duty to find out the various irregularities which he has done, and further he was deprived from the reasonable opportunity of hearing and the punishment order has also been questioned on the ground that para 51 of the P & T Manual Vol. 1 says "that where the prescribed appointing or disciplinary authority is unable to function as the disciplinary authority in respect of an official on account of his being personally concerned with the charges or being a material witness in support of the charges, the matter should be reported to the P & T Directorate with Full details for appointment of an adhoc disciplinary authority by the president," but this was not done in the case, and further the provisions of the P & T Manual provides that no notice of the such intemperate language <sup>should be taken, while</sup> was also not adhered to.

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The service of two charge sheets one after the other was the deliberate and malafide act and the authority is bent upon <sup>to</sup> punish the applicant in order to deprive him from the chances of future promotions. Undoubtedly, the applicant was the president of the employees union but at the same time, he continued to be the employee of the department, as such, it can not be said that after becoming the president of the Union his position as employee was detached ~~from~~ him <sup>from</sup> to the Government Servant Conduct Rules or the departmental rules. Action against him could have been taken. The disciplinary authority has awarded the punishment to the applicant and no regular enquiry needed. The P & T Manual undoubtedly speaks something\$ regarding the letter which has been sent to the officers by the Union Leaders containing intemperate language but it nowhere forbids the holding of the statutory enquiry which can be held under the statutory rules framed under Article 309 of the Constitution of India and <sup>any</sup> provision of the P. & T. Manual can not over-ride the same from holding any enquiry in the matter of misconduct. It may be that the disciplinary authority would have ignored the letter or instead of awarding censure entry but it was on the discretion of the disciplinary authority to award the punishment <sup>which</sup> can not be said to be severe one. According to the applicant that these two punishments now stand in the way for future promotion also placed no reliance on the matter. Admittedly, the applicant has been promoted, meaning thereby, that the effect of these punishment orders stood in his way for three years or at the most 5 years beyond this the old orders

have not <sup>been</sup> given effect to regarding his punishment. The applicant has been promoted thereafter, the ~~allegations~~ of the applicant are unfounded as the punishments have obviously not been taken into account while promoting him to the higher post. As such, the application of the applicant has no force and accordingly it is dismissed.

*thas*  
Member (A)

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Vice-Chairman

Dated: 25.2.1992.

(n.u.)