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CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

Registration No.1656(T) of 1986

Surya Narain Singh

plaintiff.
applicant.

Versus

Union of India and others

Defendants
Respondents

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

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

(By Hon'ble D.S.Misra)

This is an original suit no.603 of 1982 which was pending in the court of II Addl.Munsif Sultanpur and has come on transfer under Section 29 of the A.T.Act XIII of 1985.

2. The plaintiff's case is that while working as Extra Departmental Branch Post Master at Kotwa Lahanga Rai, District Sultanpur, he was put off duty by an order dated 6.10.1979 and a chargesheet dated 28.1.81 was served on the plaintiff alleging misappropriation of money of Smt. Savitri Devi who had Savings Bank Account no. 954509; that during the course of inquiry, plaintiff was not supplied with copies of relevant documents and on the basis of the illegal inquiry, the plaintiff was removed from service by an order dated 31.5.82. The plaintiff has challenged the order of removal from his service and sought a declaration that the impugned order of removal dated 31.5.82 is void, illegal and the plaintiff continues on his post as usual with all benefits.

3. In the written statement filed on behalf of the

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defendants, it is stated that on receipt of a complaint of Smt. Savitri Devi by the Post Master Sultanpur, inquiry was conducted and it was found that certain withdrawals noted in the Pass Book no. 954509 of Smt. Savitri Devi had not been made by her and it was revealed that the withdrawals were made by forging the signature of the lady; that the plaintiff was put off duty and served with a chargesheet and as a result of proper and valid inquiry and after perusal of the inquiry report dt 27.8.81 the competent authority passed the order of removal from service of the plaintiff vide order dated 31.5.82.

4. We have heard the arguments of the learned counsel for the parties and have carefully perused the documents on record. The defendants have filed the original file containing the inquiry into the conduct of the plaintiff. The contention of the plaintiff is that the inquiry was illegal and void as the plaintiff was not supplied with copy of SB-28 and also that no show cause notice, proposing the punishment to be inflicted on him, was served on the plaintiff. Defendants have contested the suit on the ground that the plaintiff had asked for full and complete copies of SB-28 without giving the particulars, Viz. number and date, and there are several volumes of SB-28 which are in book form and it was not possible to accede to the request of the plaintiff without his having supplied the particulars of S.Bs. required by him. It is also stated that the said paper was not considered relevant to the matter under inquiry. We have considered the matter and we are of the opinion that the plaintiff has failed to indicate how the non-production of S.B. 28 had adversely affected the conduct of inquiry or his defence during the conduct

of inquiry. We are of the opinion that this contention of the plaintiff has no merit.

5. The second contention of the plaintiff that a show cause notice should have been served on him before passing ~~or~~ the punishment order has also been contested by the defendants, who have stated that the inquiry into the conduct of the plaintiff was held in accordance with the Extra Departmental Agent(Conduct and Service) Rules and that the rule does not provide for service of any show cause notice to an extra departmental agent, who is to be punished as a result of inquiry held into his conduct. Rule 8 of the E.D.A.(Service and Conduct) Rules prescribes the procedure for imposing a penalty which runs as follows:

8 Procedure for imposing a penalty:

(1) No order imposing a penalty shall be passed except after--

(a) the employee is informed in writing of the proposal to take action against him and of the allegation on which it is proposed to be taken and given an opportunity to make any representation he may wish to make, and

(b) such representation, if any, is taken into consideration by the appointing authority:

Provided that the penalty of dismissal or removal from service shall not be imposed except after inquiry in which he has been informed of the charges against him and has been given a reasonable opportunity of being heard in respect of those charges;

Provided further that where it is proposed after such inquiry, to impose upon him any such penalty, such penalty may be imposed on the basis of the evidence adduced during such enquiry."

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The above rule states that the penalty of dismissal or removal should be imposed only after holding an inquiry in which the person has been informed of the charges against him and has been given a reasonable opportunity of being heard ~~in~~ respect of these charges. This rule further provides that such penalty may be imposed on the basis of the evidence adduced during such inquiry. We have carefully considered the arguments of both the parties and we are of the opinion that it was not necessary for the disciplinary authority to issue any show cause notice to the plaintiff before imposing the penalty of removal from service, if on the basis of inquiry report and the evidence adduced in the inquiry, he was satisfied that the inquiry was conducted properly and that the charges were established against the plaintiff.

6 Learned counsel for the plaintiff contended that the inquiry officer had given his findings without properly evaluating the evidence adduced by the prosecution and ignoring the defence evidence and that the inquiry was not conducted in the proper manner. We have considered the matter and have gone through the file containing all the papers regarding this inquiry. We are of the opinion that the evidence of the prosecution witnesses were recorded in the presence of the plaintiff and his defence counsel, who were given full opportunity for cross-examining the prosecution witnesses. The plaintiff was also provided opportunity to adduce evidence in his defence and what-ever evidence was produced by him was brought on record. The inquiry officer has given his reasons for ignoring the defence evidence and holding the plaintiff guilty of the charges framed against

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him. We are of the opinion that the inquiry has been conducted in the prescribed manner and the inquiry officer has not violated any provisions of the Rules in the evaluation of the evidence brought on record. We are ^{also} of the opinion that the punishment of removal passed by the disciplinary authority is not excessive as the charges proved against him are of very serious nature and call for deterrent punishment.

For the reasons mentioned above, we find no merit in the suit and the same is dismissed without any order as to costs.

Bhmn
A.M. 21/1/88

J.M.
J.M. 4/2/88

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