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CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH.

T.A.No.509 of 1987.

Lalji VermaApplicant.

Versus

Union of India & 3 othersRespondents.

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

Hon'ble Mr.A.B.Gorthi,A.M.

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

After the departmental enquiry, the applicant was awarded penalty of reduction of his pay to a lower stage by one stage i.e. to Rs.470/- in the time scale of pay Rs.425-15-500-EB-15-560-20-700 for a period of one year without cumulative effect.

The charge against the applicant was that he mis-behaved on 28.1.82 and 29.1.82 with his IAO(AF), Gorakhpur by shouting and using filthy and unparliamentary language and also threatened to kill the IAO for the reason that the explanation of one Smt.Madhubala Srivastava, Permanent Auditor, serving in the said office was called for on 28.1.82 for her absence on 19.1.82 without submitting any leave application or obtaining prior sanction. The applicant was working as section grade Auditor in the said office where the incident took place in the month of January, 1982. The applicant was served with a charge-sheet containing the charges referred to above. The applicant submitted his reply and requested the Enquiry Officer to fix venue of enquiry at Gorakhpur- the place of incident but his prayer was rejected. On 26.7.82, the applicant also intimated to the Enquiry Officer that one Shri J.M.Sinha, Assistant Superintendent of Post Office, Gorakhpur will assist him during the enquiry and his controlling authority be intimated to relieve

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him on the date of enquiry but the applicant was not allowed the assistance of said Shri J.M.Sinha. The statements of the witnesses recorded during preliminary enquiry and the Enquiry Officer's report were also not given to the applicant even though the same were demanded by him. The applicant prayed for postponement of enquiry as defence counsel cannot attend the enquiry but his request was turned down and as per allegation, the Enquiry Officer acted as prosecutor and held the enquiry in utter disregard of rules of natural justice and Rule 14 of CCS(CCA) Rules, 1965. The witnesses were examined and after closure of the evidence, the Enquiry Officer submitted his report to the Disciplinary Authority and the Disciplinary Authority acting on the basis of the Enquiry Officer's report awarded the penalty of reduction of pay by one stage i.e. 470/- to lower stage in the time scale for a period of one year. The applicant challenged the said reduction order on the ground that the enquiry proceedings are itself illegal and tainted. The suspension order, which was issued earlier, was issued without holding an enquiry and the assistance of the defence counsel was also denied when the prosecution witnesses were being examined. The Enquiry Officer himself acted as a prosecutor and explained the whole incident to the witnesses and ignored the evidence of defence witnesses and the Enquiry Officer based his findings by taking into consideration documents which had not been disclosed to the applicant and extraneous matter was taken into account by the Enquiry Officer. The applicant filed a

Civil suit in the Court of Munsif, City, Gorakhpur challenging the punishment order. The said suit was transferred to this Tribunal by operation of law.

2. The respondents refuted the allegations of the plaint and it has been stated that as a matter of fact the charges were committed by the applicant, that is why the charge-sheet was issued. The enquiry was conducted after giving full opportunity to the applicant and the applicant was allowed to cross-examine the witnesses and to examine defence-witness, if any, he would like to examine in support of his defence. The enquiry cannot be tainted on the said ground. All the documents, which were considered by the Enquiry Officer, were shown to the applicant and no extraneous matter was taken into account.

3. We have gone through the enquiry proceedings and do not find any illegality in the same. As a matter of fact, after holding a detailed enquiry only a minor ~~charge sheet~~ ^{penalty} was given to the applicant. It cannot be denied that no incident took place. The applicant wanted to shift his guilt on ^{to} the other persons. The applicant was given minimum punishment. As we do not find any flaw in the proceedings, it is not a fit case in which any interference can be made. Accordingly, the application is dismissed without any order as to costs.

transcripts
MEMBER (A)

u
VICE CHAIRMAN

Dated: February 25, 1992

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