

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION No.176/1987

TUESDAY, THIS THE 26TH DAY OF NOVEMBER, 2002

HON'BLE MR. JUSTICE R.R.K. TRIVEDI .. VICE CHAIRMAN

HON'BLE MAJ. GEN. K.K. SRIVASTAVA .. MEMBER (A)

Shiv Ratan Sharma, "
S/o late Shri Tula Ram Sharma,
Branch Post Master, Madauli,
District - Bareilly - 535 002. .. Applicant

(By Advocate Shri Rakesh Verma)

Versus

1. The Director Postal Services,
Lucknow Region,
Lucknow.
2. Senior Superintendent of
Post Offices,
Bareilly. ... Respondents

(By Advocate Shri G.R. Gupta)

O R D E R

Hon'ble Mr. Justice R.R.K. Trivedi, Vice Chairman:

We have heard Shri Rakesh Verma for the applicant
and Shri M.K. Upadhyaya holding brief of Shri G.R. Gupta,
counsel for the respondents.

2. By this O.A., the applicant has challenged the
order dated 13.2.1985, by which the punishment of removal
was awarded against him on conclusion of the disciplinary



...2..

proceedings. The order was challenged in appeal which was dismissed by the Appellate Authority by order dated 28.8.1986 which ^{has been} ~~is~~ also challenged.

3. Shri Rakesh Verma, learned counsel for the applicant has submitted that in the present case, the Inquiry Officer submitted his report on 4.1.1982. He found charge Nos.1,2,3 and 5 not proved against the applicant. He only found charge No.4 ^{as} partly proved. But, the Disciplinary Authority, without serving any memorandum of dis-agreement on the applicant, proceeded straightaway and passed the order of punishment. The learned counsel has submitted that the procedure adopted was illegal and violative of principles of natural justice and the order of punishment passed by the Disciplinary Authority and the order dismissing the appeal are liable to be set aside, On this short ground, ^{reliance} ~~reliance~~ has been placed on the judgment of the Hon'ble Supreme Court in the case of YOGINATH D. BAGDE Vs. STATE OF MAHARASHTRA & ANOTHER 1999 SCC (L&S) 1385, ~~the~~

4. The D.B. of this Tribunal on 22.9.1995, held that the only controversy in this case is whether it was necessary for the authority to communicate the reasons for dis-agreement with the findings of the Inquiry Officer before ^{imposing} ~~imposing~~ the order of penalty and whether a prior

...3...

notice in this regard was necessary.

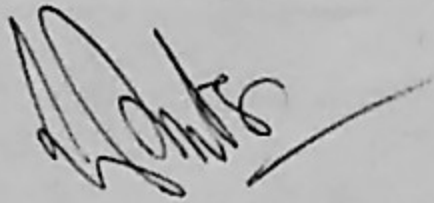
5. The Hon'ble Supreme Court in the aforesaid judgment has held that where the Disciplinary Authority does not agree with the findings of the Inquiry Officer that the charges are not proved, it has to provide at that stage an opportunity of hearing to the delinquent so that there may still be some room for convincing the Disciplinary Authority that the findings recorded by the Inquiry Officer was just and proper. In the present case, it is not disputed that the Disciplinary Authority did not serve any memorandum of dissent on the applicant before passing the order of punishment. In the circumstances, the judgment of Hon'ble Supreme Court in the case of YOGINATH D. BAGDE is squarely applicable and the applicant is entitled for relief.


6. For the reasons stated above, this O.A. is allowed. The order dated 13.2.1995 passed by the Disciplinary Authority and the order dated 28.9.1986, passed by the Appellate Authority are quashed. The case is remitted back to the Disciplinary Authority who will serve a memorandum of dis-agreement on the applicant and pass a fresh order in accordance with law after giving an opportunity



...4..

✓ filing this reply and *✓*
of hearing to the applicant. As the case is very old,
the Disciplinary Authority shall pass the order within
four months from the date a copy of this order is filed.
No order as to costs.


MEMBER (A)


VICE CHAIRMAN

psp.