

(42/1)

Central Administrative Tribunal, Allahabad Bench

ALLAHABAD

O.A.No. 421/87

(6)

Harish Chandra Gupta... ..Applicant

Versus

D. Post and Services
and others. Respondents.

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

Hon'ble Mr. K. Chayya, A.M.

(By Mr. Justice U.C. Srivastava, V.C.)
The applicant was posted as postal

Assitant under the Senior Superintendent of
Post offices Agra. At the relevant point of
time he was sub Postmaster Incharge of T.P. Nagar
TSO under Agra Head Office. He was charged for
three counts :

- (a) For failure to get 4 NPSCs for a total amount
of Rs. 11,500/- verified from the office of
registration before their encashment ;
- (b) Failure to have obtained identification of
the payee from the person known to the post
office; and
- (c) To have connived with a NSC agent in helping
him to earn irregularly commission on an
investment of Rs. 13000/- in N.S.C. VI issue
by the said payee. It was further alleged that
all this caused a loss of Rs. 23,718=75 P. to
the Government.

2. The applicant denied the charges but an enquiry
was held under rule 14 of CCA Rules and after conclu-
ding the enquiry officer submitted his report.
The enquiry officer exonerated the applicant from
all charges and has accepted the plea of the
applicant that there were two persons bearing the
same name. The Director Postal services disagreeing
with the findings of the Enquiry Officer held the

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charges as proved except the charge no.1. The Disciplinary Authority disagreeing with the findings of the Enquiry Officer held the charge no.1 also proved. Thereafter vide order dated 28.1.86 it was said that lenient view has been taken in respect of the applicant and directed the applicant to retire compulsorily with a further order by reducing 1/3 of the pension and gratuity on the date of his compulsory retirement. The applicant filed a departmental appeal which too was dismissed. Thereafter he approached the Tribunal. The applicant challenged the findings recorded by the Disciplinary Authority and the action taken by the Disciplinary Authority and challenged the approach of the Disciplinary Authority and the way he gave the findings and also further challenged the correctness of the findings. He further contended that the applicant was due to retire on 31.1.86 on which date he was attaining the age of super-annuation and the punishment order was passed on 28.1.86 before he attained the age of super-annuation and as such ~~before~~ the order of compulsory retirement can be said to be no order ^{for} withholding the gratuity and pension as the said order could have been passed only when the proceedings under rule 9 of the Pension Rules were taken. The applicant being ^{not} in service on that date no order under the Disciplinary Rules has got to be accepted as under rule 9 of the Pension Rules only action can be taken. The applicant being in service on that date no order withholding the pension and gratuity under the Disciplinary Rules after the retirement could have been passed and accordingly the second part of the order by reducing the pension and gratuity is quashed. In view of the fact, in our

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opinion no opportunity of hearing was given to the applicant and the findings could have been arrived at and lastly arrived at a particular conclusion. Accordingly this application is partly allowed and regarding the second part of the order the respondents are directed to pay back the withheld pension and gratuity to the applicant within a period of 3 months with interest @ 10%. In case the amount would not be paid to the applicant within a period of 3 months, the respondents would pay him the interest @ 12% till the date of payment.

3. No order as to the costs.

A.M.

V.C.

Dated: Allahabad
12th Oct., 1992

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