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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

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Registration U.A. No. 502 of 1987

Mohd. Hanif Applicant.

Versus

Union of India Respondents,
and others

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 joined the service as Mailman on 28th May, 1977. He was served with a charge-sheet under Rule-14 of the CCS (CCA) Rule, 1965 dated 16.8.1982 along with Articles of charges by the disciplinary authority, i.e. Senior Superintendent of Post Officers, Rail Main Service 'A' Division, Allahabad. The applicant unauthorisedly travelled in Main van of A-26 on 4.10.1982 and has allegedly opened the main bag closed by A.P. Bombay/3 dated 3.10.1982, although he was without duty and worked as mail guard from Lucknow upto Raibareilly, and thereby he violated rule 653 of (P & T) Manual, Vol. II. and from the main bag he took out the registered bag and kept the same in his private hand bag, and in this way, he is alleged to have failed to maintain an absolute integrity and devotion of duty and acted in a manner which is unbecoming of Government Servant violating thereby rule 3(i)(ii)(iii) of CCS (conduct) Rules, 1964. An enquiry officer was appointed and enquiry proceeded. The enquiry officer submitted his report to the disciplinary authority. The disciplinary authority awarded that the applicant be reduced to the minimum stage of his pay scale from Rs. 220 to Rs. 196 for a period of 5 years w.e.f. 1.7.1986. It was further ordered that the applicant

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will not ~~earn~~ ^{earn} increment of pay during the period of reduction and that on the expiry of that period, the reduction will not have the effect of postponing his future increments of pay. On 13.10.1986, the respondent no.3 issued a notice to the applicant and expressed his intention to revise the orders passed by the respondent no.2 vide order dated 26/30.6.1986, under the provisions of Rule (i) (v) of the CCS (CCA) Rules, 1985. Another notice was issued to the applicant on 9.1.1987 in which he proposed to revise the case and award the penalty of dismissal from service. The applicant was also directed to submit his representation within 10 days from the receipt of the notice. The applicant submitted his representation and, thereafter, a dismissal order was issued by the respondent no.3 on 25.6.1987. The applicant has challenged the said dismissal order on the variety of grounds. On behalf of the applicant, it was contended that as the revisional order was passed beyond the period of six months. In accordance with the provisions of Rule 29(v) of the CCS Rules, the appellate authority should have revised and passed the order of dismissal within six months of the date of the order proposed to be revised whereas in the instant case the order of revision has been passed almost 11 months after the order under revision dated 26/30.6.1986. In the instant case, a notice was issued to the applicant and the intention to revise the order was also communicated to him within a period of six months, as such it can not be said that it was beyond time merely because the matter dragged on and the order was passed within a period of six months, will not make it an order without jurisdiction.

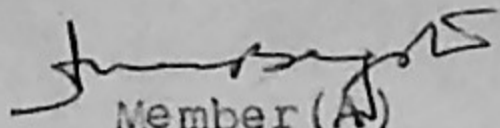
2. It was further contended that in case the revisional authority was not satisfied with the order which was the punishment order which was awarded by the disciplinary

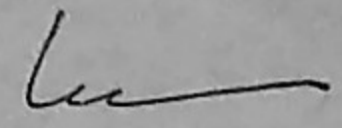
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authority. The revisional authority could not have passed the order in this manner without holding a fresh enquiry and in this connection, a reference was made to the said rule-29. The said proviso makes it clear that wherever, an enquiry is not held and the enquiry is to be held in the instance, the enquiry was held, so this proviso will not give any avail to the applicant. The learned counsel then contended that applicant having submitted to the order and having suffered the said punishment which the case of double jeopardy. It may be the case of jeopardy but the revisional authority and the appellate authority has jurisdiction to revise the order and exercise his jurisdiction on the same. So far as the earlier punishment is concerned, it may be deemed to have been wiped out and the applicant get monetary benefit but as the consequence of which, the subsequent order can not stand vitiated or nullified on the ground that it is double jeopardy. The learned counsel then contended that on the basis of the same evidence and this minor charge, no loss has been suffered by the Government and no gain has accrued to the applicant. The applicant has been punished proportionately and the disciplinary authority took a reasonable and justifiable view and awarded a particular punishment to him and the applicant is realising that only a mistake has been committed, did not file an appeal and too harsh and too severe punishment has been given. The contention is not without substance. But, the Tribunal has no power to interfere in the quantum of punishment and a reference has been made ^{to the} in case of Union of India Vs. Parma Nanda, A.I.R., 1989 SC, 1185, where the Supreme Court has laid down that the Tribunal has got no power to interfere in the quantum except some special

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circumstances, which we do not find in the present case. Although, we may agree with the learned counsel to some extent but we cannot interfere in the quantum of punishment. Accordingly, the application is got to be dismissed with the observations that the deduction which has been made from the applicant in view of the earlier punishment shall obviously be refunded to him as the earlier punishment stands wiped out.


Member (A)



Vice-Chairman

Dated: 22.1.1992

(n.u.)