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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

Registration O.A.No. 673 of 1987

S.S.Yadav

Applicant

Vs.

Union of India & Others....

Respondents

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

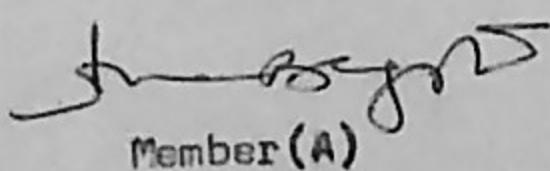
Hon'ble Mr. A.B. Gorathi, Member (A)

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

The applicant who was appointed as Branch Post Master in the district of Ghazipur was chargesheeted on 21.7.81. He was put off duty and disciplinary proceeding against him started. Six charges were levelled against him. After the detail enquiry the Inquiry Officer submitted his report and he held that the charge nos. 1, 2, 4, 5, and 6 were not proved and only the charge no.3 was proved. The Inquiry Officer recorded a clear-cut finding that the applicant was not guilty of moral turpitude, and it was only on account of unavoidable circumstances that there was delay in the delivery of the amount of money order. The Disciplinary did not agree with the findings of the Inquiry Officer. that It appears on the basis of papers and findings recorded against the applicant the Disciplinary Authority held that charges nos. 1, 2 and 6 were also proved. So far as charge no.5 is concerned the Disciplinary held that even though that charge stood proved, yet the same could not be utilised against the applicant. Thereafter the applicant was removed from service. Against the removal order the applicant filed an appeal before the Appellate Authority on 21.2.86. As per allegations of the applicant alongwith memo of appeal which was filed by him and was transmitted by the Senior Superintendent of Post Offices to the Appellate Authority. A copy of the appeal alone was sent and the original appeal memorandam was not sent which contained the signature of the applicant. The Appellate Authority rejected the memo appeal on the ground that it does not contain the signature of the applicant, and that is why the appeal will not be disposed of on merit.

2. The applicant was removed from service and he did not accept the removal order and filed an appeal against the same. The Appellate Authority was not sitting as a court of law bound by technical procedures. It was the duty of the Appellate Authority to act intelligently and to decide the appeal on merit. But the Appellate Authority exceeded his powers and duty and adopted a short-cut method in rejecting the appeal on the ground that it did not bear signature. The applicant could have been called upon to sign the memo of appeal if there was any doubt, but that was not done. Learned counsel for the applicant also contended that the Disciplinary Authority disagreed with the findings of the Enquiry Officer and as such it was incumbent to give a notice to the applicant, the absence of which vitiates the entire proceedings taken by the respondents. In this connection reference is made to the case of Shri Narainji Mishra Vs. State of Orissa 1969 Service Law Reporter page 3657, in which it has been held that ^{the disciplinary authority should have given prior notice to the delinquent} ^{All these are the matters to which the Appellate Authority} itself will consider.

3. In view of what has been said above this application deserves to be allowed and the appellate order dated 3.7.86 is quashed and the Appellate Authority is directed to decide the appeal on merits after hearing the applicant taking into consideration the points raised by him. The Appellate Authority will pass a speaking order. Let appeal be decided within a period of 2 months from the date of communication of this order. No order as to costs.


Member (A)


Vice-Chairman.

22nd January, 1992, Alld.

(sph)