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Reserved

Central Administrative Tribunal, Allahabad.

Registration O.A.No.921 of 1987

C.S.Barodia ... Applicant

Vs.

Union of India & 2 others ...2 Respondents.

Hon.G.S.Sharma, JM

Hon.K.J.Raman, AM

(By Hon. G.S.Sharma, JM)

In this Original Application u/s.19 of the Administrative Tribunals Act XIII of 1985 (hereinafter referred to as the petition) the Applicant has prayed that the order dated 12.5.1986 passed by the Senior Superintendent of Post Offices Meerut- respondent no.3 withholding his increment for a period of 3 years without cumulative effect by way of punishment and the order of Nov.1986 passed by the Director, Post Offices, Dehradun-respondent no.2 dismissing his appeal against the said order be quashed.

2. The Applicant is posted as Sub Divisional Inspector (for short SDI) Postal (West) Meerut and under the order dated 17.2.1986 issued by the respondent no.3 he had to submit a consolidated report regarding the availability and embedding of iron chests in the rooms of Post Offices under him within a period of 10 days. On his failure to comply with this order, he was served with a charge sheet dated 16.4.1986 for violating the provisions of Rule 3(i) and (ii) of Central Civil Services (Classification, Control and Appeal) Rules, 1964. He was required to submit his statement of defence within 10 days of the service of the charge sheet but he did not submit the statement despite the reminder dated 16.12.1986 within

time and the respondent no.3 accordingly awarded the aforesaid punishment of withholding his increment for 3 years. The appeal filed by the Applicant was rejected by the respondent no.2 mainly on the ground that it was time barred. It is alleged by the Applicant that the respondent nos.2 and 3 were prejudiced against him and no action was taken by the respondent no.3 against the other SDIs who had failed to submit the similar consolidated statements to him. It has also been alleged that the respondent no.3 was not competent to issue such general direction to him and he was not bound to comply with his orders. It has also been alleged by him that he had submitted his statement of defence in time and it had also reached the office of the respondent no.3 on the date the ex-parte punishment was awarded to him and it was wrongly not taken into consideration.

3. The respondents have contested the case and they categorically denied the allegation of mala fides made by the Applicant against the respondent nos. 2 and 3 and stated that the respondent no.3 was fully competent to call for the consolidated statements from the Applicant and the allegation of the Applicant that other SDIs had also not submitted their statements is incorrect and the statement of defence submitted by him had actually not reached the respondent no.3 by the time the impugned punishment order was issued and all the allegations made by the Applicant in this connection are false and concocted.

4. After hearing learned counsel for the parties and going through the record, it appears that some of the allegations made by the Applicant in his petition are either false to his own knowledge or he has made such allegations recklessly without caring to verify

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the correct facts. A few of them may be cited here. In para 6(14) of the petition, the Applicant has alleged that he was awarded the punishment of withholding increment for a period of 3 years with cumulative effect. The fact as shown by the impugned order of punishment annexure 7 is that the increment of the Applicant was withheld for a period of 3 years without cumulative effect. The Applicant seems to have made false allegation with a view to show that a severe punishment was awarded to him. In paragraphs 6(6) and 6(16) of the petition, the allegation of the Applicant is that the other SDIs (in all 5) had also not submitted any consolidated statement regarding the iron chest but the Applicant alone was chosen for action with a view to harass him on account of revengeful attitude towards him. In the Counter Affidavit, it has been stated in paragraphs 9 and 10 that other SDIs had submitted their interim reports given by their subordinate offices and the allegation has been wrongly made by the Applicant. In the Rejoinder filed by the applicant, the Applicant remained evasive on this point and stated that he had also submitted similar reports. The Applicant has further stated in paragraphs 6(13) and 6(17) of his petition that he had submitted his statement of defence on 8.5.1986 but since 9th and 10 May, 1986 were holidays, the respondent no.3 passed the ex-parte order without waiting for 2 clear days. It is, however, stated in the Counter Affidavit that 9th and 10th May, 1986 both were working days being Friday and Saturday and the ~~allegation~~ of the Applicant to the contrary is incorrect. The Applicant, however, had the courage to reiterate his petition allegation in this connection in para 19 of his Rejoinder. This shows what type of man the Applicant is. The Applicant has not come forward with any specific allegation ~~for~~ the prejudices of the respondent nos. 2 and 3 against him and we are of the view that the allegations made by the Applicant in this conn-

-ection are totally false and baseless. In case, the respondent no.3 had any prejudices against the Applicant, he could not give a second opportunity to him for filing his statement of defence without his request.

5. The respondent no.2 can also not be blamed for dismissing the appeal of the Applicant on the ground of limitation as the Applicant had not prayed for condoning the delay. The prejudices and malafides alleged by the Applicant against these officers are ~~and on this ground no interference is called for.~~ therefore, baseless and false. However, as certain legal issues have been raised by the Applicant in his statement of defence and the impugned order of punishment was passed by the respondent no.3 ex parte it will be in the interest of justice that his appeal is heard on merits by the respondent no.2 after condoning the delay and with this limited scope, we feel ~~inclined &~~ ~~no reason~~ to interfere with the orders passed in this case.

6. The petition is accordingly allowed in part and the impugned appellate order dated Nov.1986 is hereby quashed and the respondent no.2 is directed to dispose of the appeal of the Applicant afresh on merits giving due consideration to the statement of defence submitted by the Applicant after condoning the delay in filing the appeal. The Applicant may also be given an opportunity of personal hearing. This shall be done by the respondent no.2 within a period of 4 months. The parties shall bear their own costs.

(Signature)

MEMBER (A)

(Signature)

MEMBER (J)

Dated: 3rd May, 1989
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