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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL-ALLAHABAD BENCH-ALLAHABAD.

O.A. No. 923 of 1987.

Bhoop Singh Chhatra..... Applicant.

Versus

The Union of India & others..... Respondents.

Hon'ble Mr. K. Obayya - A.M.
Hon'ble Mr. S.N. Prasad - J.M.

(By Hon'ble Mr. K. Obayya - A.M.)

The applicant is in Postal Service. During the year 1983 while he was working as Mail Agent at Agra, certain lapses were noticed resulting in financial loss to the Department for which following charge memo dated 4.11.85 was issued to him:-

" Sri Bhoop Singh Chhatra SA SRD Agra while working as MA/3 Agra Cantt. RMS. dated 28.4.83 is alleged to have not challenged the non receipt of Pl. bag no. 11 prepared by Lucknow Pl. Stg. dated 27.4.83 for Agra Cantt. RMS parcel. This ill fated parcel bag including 11 more parcel bags were entered in the DML of Agra Cantt. RMS Parcel by KP - 2 IN dated 28.4.83. This DML consisting of Total X/16=16 was further despatched to MA/3 Agra Cant RMS Pl. by KP-25/2 out dated 28.4.83 duly entered in the ML at Sl. no. 2 with total 5/2=7. The charge of the mails was handed over to Shri B.S. Chhatra SA who was assisted by Shri Bharat Singh Mail guard. At the time of taking the charge from the staff of KP-25 Out, the non receipt of Pl. bag was not challenged by Shri B.S.- Chhatra. The case was detected in Agra Cantt. RMS. Pl. on 29.4.83 by the HSA. The Pl. bag under reference contained two insured parcel no. 343 and 344 dated 27.4.83 of Lucknow Chowk for Rs. 3000/- and Rs. 6000/-. The enquiry frustrated due to non challenging the non-receipt of the above pl. bag at the spot.

Thus Shri B.S. Chhatra SA by his aforesaid act violated rule 81 (1) of P & T. Manual Vol. V, 112 (2) of P & T. Manual Vol. VII read with sub rule (1) ~~for~~ (ii) of rule 3 of CCS (Conduct)rules 1964. Sd/-Illigible (H.P.Gupta, Superintendent RMS. 'X' Dn.Jhansi.

The applicant in his reply dated 24.12.85 pleaded that he was ignorant and had committed no mistake and the charges be dropped

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The disciplinary authority after considering the reply of the applicant passed orders dated 11.1.86 withholding one increment of the applicant for a period of six months without cumulative effect (Annexure A-4). The applicant preferred an appeal against the punishment order. The appellate authority was of the view that the penalty awarded was not adequate and vide memo dated 29.1.87 (Annexure A-6) he issued a show cause notice to the applicant proposing enhancement of punishment to recovery of Rs. 6000/- in 12 equal monthly instalments. The applicant submitted his representation to the show cause notice on 3.3.87. The appellate authority after considering the representation of the applicant passed orders on 9.5.87 enhancing the penalty of with-holding of increments for six months to recovery of Rs. 6000/- from the pay of the applicant in 12 equal monthly instalments.

2. The applicant has assailed the orders of the disciplinary authority and also the appellate authority on the ground that the orders are discriminatory and that ^{they} were passed without application of mind and that the appellate authority failed to decide the appeal in time and that there was no independent inquiry through police Agency to establish the charge against the applicant and that the punishment imposed is severe and that reasonable opportunity was not given to the applicant to defend his case.

3. The respondents have contested the case and in the counter affidavit filed on their behalf, it is pointed out that the charge-sheet was issued to the applicant under rule 16 of CCS (CCA) Rules, 1965 which is for imposition of minor punishment. The applicant was awarded minor punishment of with holding the increments for six months. The appeal of the applicant was considered by the Director of Postal services, the Competent Authority by following due procedure, the punishment was enhanced to recovery of Rs. 6000/- from the pay of the applicant in

12 equal instalments. According to them no inquiry was called for, in the matter of imposing of minor penalty and the Competent Authority has decided that the inquiry was not called for. It is also stated that the statements were recorded from the applicant on 20.11.84 and 24.11.84 and that there was preliminary investigation as to whether the bags were mis-placed or missing. It is also stated that the applicant has not requested for supply of documents at any time during the disciplinary proceedings.

4. We have heard Sri K.C. Sinha learned counsel for the respondents. We have also considered the written arguments filed on behalf of the applicant. In the written arguments contained detailed narration of incidents leading to the disciplinary proceedings. Also certain legal and technical pleas have been raised. In the technical pleas, it is pointed out that the copies of the orders were cyclostyled copies and such copies are no orders in the eye of law and that decision of the appellate authority is barred by time as the appeal was decided after six months of preferring the appeal. It is also stated that the disciplinary authority did not hold the applicant responsible for the loss and that the appellate authority has not passed the orders in conformity of rule 27 (2) of CCS (CCA) Rule 1965. It is also pointed out that the orders should be reasoned orders. So far as the legal grounds are concerned, it is pointed out that there was no inquiry held in the case and that there is no finding of the disciplinary authority as well as appellate authority and that the applicant was not given opportunity and the copies of the relevant documents were not given and the principle of natural justice has been violated and that the respondents have not given in the reply to paras 9 and 10 of the application.

5. The learned counsel for the respondents urged that in this case the due procedure was followed. The order of the

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disciplinary authority is a well reasoned order wherein the representation of the applicant was discussed and the applicant was held responsible for carelessness working on his part. The order is extracted as below :-

" Department of Posts, Office of the Superintendent R.M.S. 'X' Divn. Jhansi-284001, Memo No. K.40/66 A/83-84 Dated at Jhansi, the 11.1.86.

Shri Bhoop Singh Chhatra STG. ASSTT. S.R.O. Agra was proceeded against under rule 16 of CCS (CCA) Rules 1965 vide this office memo No. even dated 4.11.85. The statement of imputation of misconduct or misbehaviour on the basis of which the said action was taken, is reproduced below:-

Shri Bhoop Singh Chhatra STG. Asstt. SRO Agra while working as MA/3 Agra Cantt. RMS. Dt. 28.4.83 is alleged to have not challenged the non-receipt of PL bag no. 11 prepared by Lucknow PL Stg. dated 27.4.83 for Agra Cantt. RMS. Pl. This ill fated parcel bag including 11 more PL bags were entered in the DML of Agra Cantt. RMS PL by KP-2 IN dt. 28.4.83. This DML consisting of total X/16=16 was further despatched to MA/3 Agra Cantt. RMS PL by 1 KP-25/2 Out dt. 28.4.83 duly entered in the ML at Sl. no. 2 with total 5/2=7. The charge of the mails was handed over to Shri B.S. Chhatra STG Asstt. who was assisted by Shri Bharat Singh Mail Guard. At the time of taking the charge from the staff of KP-25 out, the non-receipt of PL bag was not challenged by Shri B.S. Chhatra. The case was detected in Agra Cantt. RMS. PL on 29.4.83 by the H.S.A. The PL bag under reference contained two insured PL No. 343 and 344 dt. 27.4.83 of Lucknow Chowk for Rs. 3000/- and Rs. 6000/-. The enquiry frustrated due to non challenging the non-receipt of the above PL bag at the spot. Thus Shri B.S. Chhatra SA by his aforesaid act violated rule 81 (1) of P & T Manual Vol V, 112 (2) of P & T. Manual Vol VII read with Sub-Rule (1) (ii) of rule 3 of CCS Conduct) Rules 1964."

The above memo of charge-sheet was delivered to Shri B.S. Chhatra on 8.11.85. He demanded copies of some documents vide his application

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dated 16.11.85 and the same were supplied to him vide this office letter no. even dt. 2.12.85 accordingly, he submitted his defence statement on 24.12.85.

I have gone through the memo of charge-sheet defence statement submitted by the official and other relevant records of the case and found that the official miss-represented the fact that he was not responsible for correctly examining the bags according to the entries in the mail lists and wiped of his responsibility on the plea that it was for the mail guard to closely examine the bags and he(the official) was merely required to count the bags numeracally without bothering to examine them closely and properly. He repeated this false plea in different paras of his defence statement and asserted that the mailguard who really exchanged the mails with the section, did not inform him regarding non-receipt of the above ill fated bag. He also quoted rules 112 (1) and 81 of P. & T. Manual Vol VII & V respectively in his defence statement which in no way help him in refuting the charges. The charges as such levelled against him remain unsettled. How he worked with required devotion and care, they would have surfaced then and there.

However, in view of the fact that the ill-fated bag was not at all received at Agra, the responsibility for loss cannot be thrust on him, but careless working on his part was there. ORDER I, the undersigned, however is inclined to take the case leniently and, therefore, order to with held one increment for only six months of Shri B.S. Chhatra without cumulative effect. (Sd/- illigible (H.P. Gupta) Superintendent, RMS. 'X' DN. Jhansi.)

6. We find on close examination that the order of the disciplinary authority has discussed, the representation of the applicant and the issues raised by him, it cannot be said that there is no due application of mind, nor was any opportunity denied to the applicant. It is also noticed that the appellate order dated 19.5.87 was of issue of show cause notice, it runs into three pages and we are of the view that this order has dealt with all the issues raised by the applicant and certainly it cannot

be said that there is no due application of mind.

7. We have carefully examined the relevant provisions of CCS (CCA) Rules 1965. Rule 11 deals with penalties and minor penalties are enumerated from (1) to IV) under this rule which include censure with holding increments and recovery from the pay of any pecuniary loss caused to the Government. The procedure for imposing minor penalties is laid down in rule 16. According to this rule it is required that Government servant is informed of the proposal of action to be taken against him and also of the imputation of mis-conduct and opportunity to make a representation and inquiry has to be held where disciplinary authority is of the opinion that such an inquiry is necessary and pass an order recording a finding on the imputation of misconduct. We find from the record and the order of disciplinary authority that the procedure as laid down under the rule has been complied with. So far as the appellate orders are concerned, it is governed by rule 27 of the CCS (CCA) Rules. Under this rule the Appellate Authority can enhance the punishment by giving the opportunity to the charged officer. Such a notice was given to the applicant and his representation was also considered. The appellate order as observed by us runs into three pages and the issues raised by the applicant are discussed.

8. Regarding Technical flaws, that copies of orders were cyclostyled orders and that the appeal was not disposed of within time. We consider that these pleas raised on behalf of the applicant, do not call for serious consideration. An order is an order, whether it is cyclostyled copy or ~~thax~~ otherwise if passed by Competent Authority and copies are always cyclostyled. Also the stipulation of time for disposal of appeal is within a view to emphasise early disposals and an appellate order does not become invalid, merely because it was passed after considerable delay.

9. Looking at the orders of Disciplinary Authority and also appellate Authority with reference to the rule cited above, we find that no case is made out of any violation of the provisions of the rules. In the circumstances we hold that there is no merit

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in the application and accordingly it is dismissed with no
order as to the costs.

Member (J).

Member (A)

Dt : May 27th, 1992.

(DPS)