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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

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Registration O.A. No. 1067 of 1987

Malji Pandey Applicant.

Versus

The Sub-Divisional Inspector of Post
Offices, Kauri Ram, Gorakhpur and
others Respondents.

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Hon. Mr. Justice U.C. Srivastava, V.C.
Hon'ble Mr. V.K. Seth, Member (A)

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

The applicant was appointed as Extra Departmental Delivery Agent in Chawaria Buzurg Branch Post office in account with Kauri Ram Sub-Post Office, Distt. Gorakhpur. It was found that certain fraudulent payment of money orders have been made and that is why he was put off from duty vide order dated 15.4.1972. The matter was also reported with the police and a criminal case was instituted against the applicant. As the department report to the police that the record was lost and the record was not available and that is why, the police submitted a final report in the criminal matter. A departmental enquiry had also been initiated against him and in the department enquiry it was found that the applicant has mis-appropriated several money orders by changing the names and address of the original payee and that is why, this enquiry was held on the basis of the record which was available with the department. The applicant was removed from service vide order dated 27.6.1987 and against

which he filed an appeal and the appeal was also dismissed vide order dated 27.7.1987, and thereafter he has approached the Tribunal. The applicant has challenged the removal order on the ground that the charge-sheet given to the applicant was with malice, and the M.O. paid vouchers and their concerned payees could only throw light on the circumstances under which the MOs were paid correctly or incorrectly. In the present case, against the applicant majority of the so-called payees of the M.Os. in respect of which their statements were not recorded during preliminary enquiries have stated not to be the payees of the concerned MOs, and they have not claimed the MOs to have been sent to them by their relatives or friends. The applicant has not been given full opportunity to defend himself.

2. The respondents have refuted the claim of the applicant and have stated that full opportunity to defend was given to the applicant. The disciplinary authority after taking into consideration the statement of the witnesses along with the documents available with him, arrived at a particular finding and it cannot be said that there is no evidence in this case. In this case, a reference has been made to the case of Union of India Vs. PermaNanda, AIR 1989 2 SCC page 177, it has been observed that the

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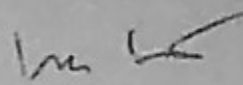
jurisdiction of the Tribunal to interfere with the disciplinary matters or punishment cannot be equated with an appellate jurisdiction. The Tribunal cannot interfere with the findings of the Inquiry officer or competent authority where they are not arbitrary or utterly perverse. The power to impose penalty on a delinquent officer is conferred on the competent authority either by an Act of legislature or rules made under the proviso to Art. 309 of the Constitution. If there has been an enquiry consistent with the rules and in accordance with principles of natural justice what punishment would meet the ends of justice is a matter exclusively within the jurisdiction of the competent authority. If the penalty can lawfully be imposed on the proved misconduct, the Tribunal has no power to substitute its own discretion for that of the authority. The adequacy of penalty unless it is malafide is certainly not a matter for the Tribunal to concern itself with. The Tribunal also cannot interfere with the penalty if the conclusion of the Inquiry Officer or the competent authority is based on evidence even if some of it is found to be irrelevant or extraneous to the matter. "The same thing arises in this case. The applicant has taken this plea that the statement of Sri Ram Subhag and Sri Bagedu Das was included in the listed document of the charge-sheet and as such, their statement was to be recorded to confirm their previous statements.


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It cannot be said that ofcourse the applicant
was not given full opp-ortunity to defend himself.
According, the application deserves to be dismissed.
There will be no order as to costs.


Member (A)


Vice-Chairman

Dated: 8.4.1993

(n.u.)