

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 23rd day of February 1995.

Original Application no. 229 of 1988.

Hon'ble Mr. T.L. Verma, Judicial Member.
Hon'ble Mr. S. Dayal, Administrative Member.

Balloo Dass, a/a 39 Yrs, S/o Shri Dharma Dass, Postal Assistant Head Post Office, Gopeshwar, Distt. Chamoli.

... Applicant

C/A Shri B.P. Srivastava & Shri R.K. Pandey

Versus

1. Union of India, through the Secretary Ministry of Communication, New Delhi.
2. The Director General (Post) New Delhi.
3. Director Postal Services, Dehra Dun.
4. The Superintendent Post Offices, Gopeshwar, Chamoli.

... Respondents

C/R Shri N.B. Singh

O R D E R

(Hon'ble Mr. S. Dayal, Member-A)

This application under section 19 of the Administrative Tribunal Act, 1985, challenges the order of the disciplinary authority imposing the punishment of reduction of pay of the applicant by one stage in the time scale of pay without any effect on future increments and future pay, and the orders of the appellate and revisional authorities in not interfering with the disciplinary authority's order. The relief sought

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is the setting aside of these three orders and the award of costs.

2. The main ground on which relief has been asked for is that the disciplinary authority relied upon the statement of the depositor Shri Chait Singh given during the preliminary enquiry and it was neither, repeated nor corroborated during the enquiry, and hence it should not have been relied upon.

3. The second ground on which the disciplinary authority's order has been challenged is that the Enquiry Officer did not give the finding that the charges were proved and the disciplinary authority did not give any reason for differing from the findings and yet awarded the punishment.

4. Thirdly, the enquiry officer closed the enquiry prematurely as infructuous after Chait Singh's statement and did not recall certain prosecution witness so that they may be cross examined properly.

5. Fourthly, the disciplinary authority gave his opinion over the signatures of Shri Chait Singh which could be given only by a handwriting expert.

6. Fifthly, the applicant is being held liable for

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lapses of Gopeshwar H.O. which did not intimate about the transfer and closure of account to Malapri S.C.

7. Sixthly, that Shri Chait Singh was a reluctant witness and appeared before the enquiry officer after five years when his attendance was statutory enforced.

8. Lastly, no reasonable person could have reached the conclusion of the applicant's delinquency based on the facts of this case.

9. The counsel for the applicant Shri R.K. Pandey was heard. He reiterated the above and stated that non supply of reasons for differing from the report of the enquiry officer resulted in denial of opportunity contemplated under Rule 16 of the CCS (CCA) Rules. He also referred to Narayan Mishra Vs. State of Orissa. The counsel for the respondents Shri N.B. Singh stated that the Enquiry Officer did not categorically say that charges were not proved but said that charges were about to ^{be} proved. He states that the disciplinary authority has given reasons for differing in his order.

10. We shall deal with grounds three to six first and then take up the first two grounds. The applicant has suggested that the enquiry officer closed the proceeding

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after the statement of Shri Chait Singh was recorded as Chait Singh's statement before the enquiry officer affirmative took away the basis on which the conclusions on charges were dependent. The statement of Chait Singh was recorded in 1983 after enforcing his attendance while other statements were recorded in 1978. The defence had the opportunity after that upto the middle of 1984 when the briefs of the Presenting Officer and Defence Assistant were received. It is not the case of the applicant that he was not allowed to present his defence. He mentions that there was an oral request for recalling some Prosecution witness. All witnesses except Shri M.M. Saklani were already cross examined by the defence Assistant as is clear from the report of Enquiry Officer. The applicant has neither established that he made a request nor that there was any prejudice caused to him because of not being allowed to cross examined again, but seems to have made this point in order to suggest that he was not allowed full opportunity for his defence. He does not establish this ground and this suggestion of the applicant has no merit.

11. The claim by the applicant that the handwriting or signature can only be proved by handwriting expert has no merit. The applicant as well as other witness were connected with ~~management~~ handling of Saving Bank Accounts in the Post Offices and were responsible for withdrawals of money day in

and day out on the basis of signatures. Therefore, the claims of the applicant that the departmental officials could not say that withdrawal form was not signed by Shri Chait Singh is not valid.

12. The claim by the applicant that Malari Seasonal Post Office was not intimated about the transfer and closure of the account of Shri Chait Singh appears to be correct. There is no reference to such any entry of transfer and closure in the report of the Enquiry Officer. The statements of witnesses show that such record existed only in Gopeshwar while it does not say whether such an entry about closure ~~existing~~ existed in Malari, which was a seasonal Post Office.

13. It is true that Shri Chait Singh was a reluctant witness who gave one type of statement during the preliminary enquiry and totally contradictory statement during the departmental enquiry. His statement cannot form a basis for the charge that the money was withdrawn by the applicant by forging his signature. By giving contradictory statements, he has become a witness unworthy of any credence.

14. The enquiry report shows that the applicant permitted a withdrawal of Rs. 1000 but does not give any evidence to show that there was any entry regarding the transfer of account of Gopeshwar and its closure on 01.01.76. There

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is no evidence to establish the first charge. The second charge of forgery and fraudulent withdrawal by the applicant is also not established because there is no evidence adduced in the departmental enquiry to show that the withdrawal form was signed by the applicant. The third charge is of forging long book, List of Documents and S.O. account of 27.7.77. However, there should not be any question of forgery since the applicant was working in the seasonal Post Office on 27.07.77 and he was responsible for making any entries in these documents. Thus there is no evidence to substantiate the charges.

15. We, therefore, hold that the enquiry is vitiated due to the fact that no evidence has been led during the enquiry to establish the charges. We set aside the order of the Disciplinary Authority number F/Misc-05/77-78 Malari dated 4.7.85, of the appellate authority No. VID/DPM/Disc - 3 185 dated 17.09.85 and of the Revisional Authority no. 1/51/87-Vig III, dated 22.1.87.

16. There shall be no order as to costs in this case and the parties concerned will bear their ^{own} costs.

Member-A

Member-J

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