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CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD

Original Application No. 233 of 1988

Mool Chand

...

Applicant

Versus

Supdt.Posts Mirzapur & others ...

Respondents

Hon'ble Mr. Maharaj Din- Member (J)

Hon'ble Miss Usha Sen - Member (A)

(By Hon'ble Miss Usha Sen- Member Administrative)

While working as Sub-Postmaster, Chunai (Mirzapur), the applicant, Shri Mool Chand, was issued a chargesheet dated 8-8-84 under Rule-16 of C.C.S. (C.C.A.) Rules 1965 for temporary misappropriation of Govt. money to the tune of Rs. 24/- and Rs. 521/- and late transmission of priority messages during the period 27-10-83 to 19-11-83. On receipt of his defence statement and after examining the same the Disciplinary Authority awarded the punishment of withholding of promotion for 4 years and recovery of Rs. 24/- in one instalment vide his memo dated 24-9-84.

The applicant preferred an appeal against this punishment to the Director Postal Services, Allahabad. The Appellate Authority set aside the punishment order vide his letter dated 25-1-85 (Annexure A-II) asking for a *denovo* trial.

A fresh charge sheet dated 10-9-85 under rule-16 of C.C.S. (C.C.A.) Rules 1965 was issued on the applicant with the charge that on 6-11-83 he left the headquarters, Chunai, and kept the office closed without prior permission of the Competent Authority and that he transmitted some priority telegraph messages late on 11-11-83 (Annexure A-III).

The applicant submitted his defence statement on 28-9-85 after

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considering which the Disciplinary Authority, viz, Supdt. Post Offices, Mirzapur, awarded the punishment of withholding of promotion for one year w.e.f. 24-9-84. This punishment was awarded vide the office memo dated 4-10-85 (Annexure A-V) but was to be effective from 24-9-84 for a period of one year. The applicant states that he submitted an appeal dated 19-11-85 against this order but the same had been rejected as conveyed in a letter stated to be dated 1-4-87 (Annexure A-VII) on the ground that the appeal had been submitted late.

2- The main case of the applicant is that the punishment has been awarded without there being any evidence in support of the charges levied against him and that his appeal was not considered on the ground that it was belated even though he submitted it within 41 days. He states that he received the punishment order dated 4-10-85 on 9-10-85 and he preferred the appeal on 19-11-85. Hence he had come to the Tribunal seeking the relief of setting aside with the punishment order as well as the order of the Appellate Authority rejecting his appeal as being belated.

3- The learned counsel for the respondents has contended that the applicant had admitted the charge of leaving the headquarters on 6-11-83 in his defence statement dated 28-9-85. It is seen from the said memo dated 4-10-85 that the disciplinary authority had reasoned that regarding the second charge the applicant was not

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"definite about his action" and the first charge of leaving the headquarters had been admitted by him. As such he had come to the conclusion that both the charges were proved, and awarded the punishment as stated in it. Therefore, the contention of the applicant that the charges had not been proved was baseless. As regards the belated receipt of the appeal by the Appellate Authority, the respondents state that the appeal was actually received on 22-6-86.

The appeal was itself dated 17-6-86 and was accompanied to the by an application dated 19-6-86/Director Postal Services, Allahabad. The appeal is stated to have been submitted under "U P C" which was dated 19-11-85. A photocopy of the UPC is at page 19 of the application. The respondents have not attached copies of the said appeal dated 17-6-86 or ^{or} the application dated 19-6-86.

4- We have examined the case. We find that there is no evidence produced by the respondents to support their stand that the appeal was belated. As regards the proof of charges and the punishment awarded by the Disciplinary Authority, we would like to state that even if it be granted that the charges were partly admitted by the applicant and the punishment was justified, we find that the punishment has been made effective from a back date viz. 24-9-84 on the ground that the second enquiry was only a "denovo" enquiry of the first one in respect of which the punishment order had been issued on 24-9-84. Hence, ^{It has been argued that} the punishment order dated 4-10-85 in respect of the second enquiry should also take effect from 24-9-84. We do not subscribe ^{to} this

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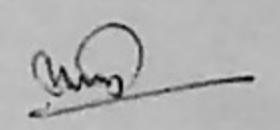
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view. This is a case where a fresh enquiry was conducted because the punishment order in respect of the first enquiry was set aside. Hence any punishment awarded in pursuance of this second enquiry could have effect only from a prospective date. In other words the withholding of promotion could be made effective from a date after the issue of the second punishment order dated 4-10-85 and not prior to that. The order of punishment dated 4-10-85 (Annexure A-V) is, therefore, quashed. The respondents are, however, at liberty to continue with the disciplinary proceedings from the stage following that of receipt of the defence statement dated 28-9-85 (Annexure A-IV) of the applicant. The appeal is, thus, allowed to this extent.

5- No order as to costs.

Usha Dev
MEMBER (A)


MEMBER (J)

DATED:
Allahabad December 14, 1993.

(IS PS)