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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

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Registration O.A. No. 813 of 1988

Triloki Nath Applicant.

Versus

S.D.I. (Posts) Anandnagar
and others Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon'ble Mr. A.B. Gorthi, Member (A)

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

The applicant who was working as Post Master was given a charge-sheet on 20.11.1985. The charge against the applicant was that he overstayed^{ed} of leave from 26.2.1985 onwards and from 15.4.1985 onwards. Secondly, Temporary misappropriation of Rs. 5,000/- tendered by Shri Ram Adhar from 1.8.1984 to 29.9.1984. The applicant submitted his reply and an application for leave duly supported by Medical Certificate under certificate of posting and that is why he could joined^{for} about a month. As regards, the second charge is concerned, the enquiry officer has held that the charge of temporary mis-appropriation of money is not established. An enquiry officer was appointed and the enquiry officer has concluded his enquiry with a finding that ofcourse this is not a case of misappropriation but undoubtedly, it is a case of temporary embezzlement in as much as the applicant retained the money with him^{for} more than 28 days and similarly so far as the ~~over~~^{over} ~~seele~~^{section} is concerned, the enquiry officer was not satisfied with the explanation of the applicant as the applicant has earlier stated that he was under treatment in Basti and the ~~show~~^{so} called application was sent from Uska Bazar, 00000

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Post Office which was in the District of Basti. The disciplinary authority also concurred with the finding recorded by the enquiry officer that one charge was fully proved and other was partly proved, and thereafter, the respondents have passed an order removing the applicant from service. The applicant filed an appeal which was dismissed, thereafter, he approached to the Tribunal.

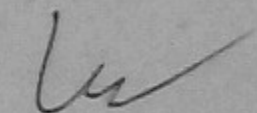
2. The learned counsel for the applicant ^{strenuously} ~~extraneously~~ contended that the charges were not fully proved and at the most it could be only said that the respondents only succeeded in establishing that there was some doubt regarding the conduct of the applicant. Doubt can not be taken to be ^{proof} ~~proved~~. Now a clear cut finding has been recorded by the enquiry officer, the disciplinary authority has a jurisdiction to do so. It was within the jurisdiction of the disciplinary authority to read it along with the attending circumstances, and no interference in the same can be made, when the appellate authority also concurred with it.

3. It appears that the appellate authority did not give any personal hearing to the applicant with the result that the applicant was deprived of urging before the appellate authority that the enquiry officer's report was not given to him and that the finding is not based on the facts and that the quantum of punishment is very harsh.

4. Accordingly, this application ~~is~~ deserves to be allowed and the order of the appellate authority is quashed and the appellate authority is directed to decide the appeal of the applicant after giving him personal hearing.

Let it be done within a period of 3 months from the date of receipt of the copy of this judgment. The application is disposed of with the above observations. Parties to bear their own costs.


Member (A)


Vice-Chairman

Dated: 18.2.1992
(n.u.)