

(A7)

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 30th DAY OF JANUARY 96

Original Application No. 829 of 1988

HON.MR.JUSTICE B.C.SAKSENA,V.C.

HON.MR. S.DAS GUPTA, MEMBER(A)

Prem Narain Dwivedi, S/o Haridwar
R/o Village & P.O. Kasauli
Sub-Post office Bridgemanganj
District Gorakhpur

Applicant

BY ADVOCATE SHRI R.K. TIWARI

Versus

1. Director Postal Services, Allahabad
2. Senior Superintendent of Post Offices, Goprakhpur Division, Gorakhpur.

Respondents

BY ADVOCATE SHRI N.B.SINGH

O R D E R (reserved)

JUSTICE B.C.SAKSENA,V.C.

Through this O.A, the applicant challenges an order dated 30.6.87 passed by Senior Superintendent of Post Offices removing ~~xx~~ the applicant from services after departmental inquiry. The applicant also challenges an order dated 31.12.87 passed by the Director, Postal Services, rejecting the appeal against the order of punishment.

2. We have heard the learned counsels for the parties and have been gone through the pleadings.

3. The brief facts may be noted. The applicant was appointed as an Extra Departmental Branch Post Master. He was served with a charge sheet. The applicant denied the allegations. Thereafter a departmental inquiry was held. The Enquiry Officer held the charges to be proved and the Senior Superintendent of Post Offices agreeing with the Enquiry Officer's report passed the order for punishment.

4. The learned counsel for the applicant submitted that the finding recorded by the Enquiry Officer as also by the Disciplinary Authority has been reached ignoring the evidence. The learned counsel was called upon to cite any decision laying down that the findings recorded by the Disciplinary Authority can be interfered with by the Tribunal supported by some evidence. The learned counsel was unable to indicate any decision. It is fairly well settled that the Tribunal does not sit as a court of appeal on the findings recorded by the Disciplinary Authority. The findings can be interferred with only if it could be shown that they are perverse or are based on inadmissible evidence. We have perused the order passed by the Disciplinary Authority as also by the Appellate Authority. Good and cogent reasons have been indicated to support the findings. The findings cannot be said to be perverse or based on inadmissible evidence. The learned counsel for the applicant submitted that the Enquiry Officer's report has not been furnished to the applicant. By amending the OA no doubt such a ground had been taken and an averment was made by adding para 6(g)(1) in which it has been admitted that the Enquiry Officer's report was furnished alongwith the order dated 30.6.87. ~~However, it is found that the said ground is based on an assumption~~ Copy of the Enquiry Officer's report has been furnished to the applicant alongwith the order dated 30.6.87 Annexure 7 as would be evident from the endorsement made therein. The applicant in his appeal copy of which is Annexure 8 has referred to the finding of the Enquiry officer and has given out his reasons to assail the said findings. The Disciplinary Authority agreeing with the findings of the Enquiry officer had passed the order of punishment. The Appellate Authority has also dealt with all the pleas raised by the applicant and has passed a detailed and speaking

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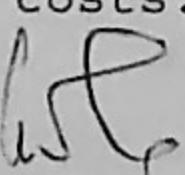
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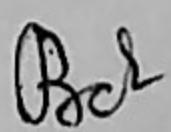
speaking order.

5. The learned counsel for the applicant placed reliance on Rule 217 occurring in Chapter 3 of the General Rules, copy of which has been supplied at the hearing of the OA. Neither in the OA nor in the departmental appeal such a plea had been taken. Since the respondents had no occasion to meet the said ground we are not persuaded to adjudicate on the applicability of Para 217 aforesaid in the present case. We, however, would like to state that the deficiency in the cash was found subsequently when the complaint Inspector, as can be gathered from the pleadings of the parties, made inspection. In the counter affidavit it has been indicated that when the complaint inspector pointed out, the applicant in his statement dated 27.1.87 admitted the same.

6. In the Rejoinder affidavit, the said averment has not been controverted.

7. In view of the above, we do not find that any ~~case~~ case has been made out for granting the reliefs prayed for. The O.A. is therefore, dismissed. Parties shall bear their own costs.


MEMBER (A)


VICE CHAIRMAN

Dated: January, 1996

Uv/