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CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH

Original Application No. 919 of 1988

Harishankar Srivastava ... Applicant

Versus

Union of India and Others ... Respondents

Hon'ble Mr. Justice U.C. Srivastava, V.C

Hon'ble Mr. K. Chayya, Member(A)

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

The applicant died on 1.5.89 at Mirzapur during the pendency of this case which was represented by a legal representative, <sup>who</sup> states, the applicant who was Asstt. Post Master and according to him he suddenly fell seriously ill on 15.12.75 and became unconscious. His fellow worker carried him to Mirzapur for treatment and from Mirzapur to Varanasi he was carried on medical advice. In such circumstances it was quite impossible for him to give the charge of the office or to give any message. Shri Raghunath Prasad was the next senior clerk with whom the applicant held joint charge of cash and valuables of the office and used to keep one key of the cash chest, which could be opened only when both the keys were applied. On 16.12.75 morning the said senior clerk reported telegraphically to the Supdt. Post Mirzapur regarding the absence of the applicant. The Supdt. personally reached the post office on 17.12.85 morning and it is alleged that the cash chest of the office was

opened in his presence. A shortage of Rs.6626.79p is said to have been found. The Supdt. Post lodged an F.I.R at the police station Roberts Ganj alleging that the applicant had misappropriated the amount of Rs.6626.79p. The applicant sent an application for leave supported by medical certificate to the Supdt. which reached the office on 17 or 18.12.75.

2. Simultaneously the Supdt. started a disciplinary proceeding against the applicant and served him with a memo of charges dated 5.1.76. An enquiry officer was deputed who submitted his enquiry report on 22.6.76. The Supdt. was convinced with the findings of the enquiry officer and he dropped the disciplinary proceedings although as against rule he did not give it in writing. The Disciplinary proceedings subsequently was dropped. The supdt. served the applicant with another memo of charges under Rule 16 CCS (CCA) Rule 1965 dated 10.5.84. He finally decided this case on 24.7.84 and awarded the applicant the punishment of recovery of Rs.6626.79p from his pay at the rate of Rs.250/- p.m. in 26 instalments. This Punishment order was set aside in appeal by the Director General Post New Delhi but even then the Supdt. and D.P.S did not refund the amount recovered from the applicant hence the applicant approached this Tribunal and the recovered amount was returned when the Tribunal directed them to do so vide its order dated 18.5.87.

3. According to the applicant when this order

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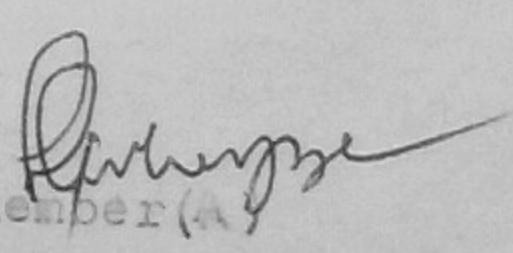
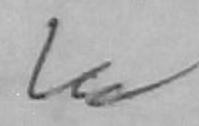
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of punishment could not stand another order of compulsory retirement was passed. On the basis of the earlier charge sheets which were dropped and this order has been passed after a lapse of full 8 years and 8 months from the date of submission of the inquiry report dated 26.6.76.. The disciplinary authority is precluded to initiate departmental proceeding on the same facts, same material and same grounds on which they got a criminal case filed in the criminal court. Although there are no Statutory Rules to place a limitation of time on the issue of punishment order in which the departmental enquiry report has been submitted, the issue of punishment order after complete 8 years and 8 months after the submission of enquiry report is quite unwarranted and deserves to be set aside. Further in the same fact a charge sheet could not have been issued after 9 years and the enquiry was no enquiry at all once it was dropped and the applicant could not have been compulsorily retired. Now according to the respondents the judgment of the criminal court was received in 1976 and the Disciplinary proceedings against the applicant culminated in the order of compulsory retirement so far as the absence is concerned the respondents have not admitted the fact as stated by the applicant though they said that an application was received from the applicant in the year 1976. The order of compulsory retirement was not passed by the Supdt. but by the Superior Authority, i.e. Director Postal Services. In this case the charge against the applicant was only unauthorised absence and the applicant

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has also submitted some proof that he was hospitalised. It may be the reason that the application would have been given ~~in~~ time but he was seriously ill. It appears that the departmental proceedings which were dropped once and there after the proceedings were again started and later on the applicant approached this Tribunal. It appears that yet another charge sheet was served in respect of the same matter and although the disciplinary authority did not award the said punishment but the superior authority who awarded the punishment. In the circumstances the application deserves to be allowed. In this case when the superior authority was not able to decide the matter for years it appears that it was so ~~so~~ fickle minded it could not make up its mind for 9 years and ~~it was~~ then passed the order of compulsory retirement and while passing the order of compulsory retirement a full ~~suspension~~ <sup>before</sup> proceeding should have been taken place when the Director Postal Services did not agree with the suggestion which had <sup>been</sup> given by the enquiry officer or by the Supdt. Post offices he should have been called upon the applicant to show cause as to why he should not be compulsorily retired from service as he was not agreeable with the suggestion which was given by the lower authority but nothing like that was done in this case. Accordingly this application deserves to be allowed and the order, of compulsory retirement is set aside. The department is directed /to proceed in accordance with law. No order as to the costs.

  
Member (A)  
Vice Chairman.

Dated: 29th July, 1992:

(Uv)