

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,  
ALLAHABAD

Dated: Allahabad this day.. 20/5/.. day of.. April 1996

Hon'ble Dr R.K.Saxena, JM

Hon'ble Mr D.S, Bawaja, AM

ORIGINAL APPLICATION NO. 1118/ OF 1988

Awadh Narain Tripathi, son of Sri Raja Ram, Tripathi,  
aged about 39 years employed as Postal Assistant,  
Fatehpur Postal Division, Fatehpur - Applicant  
( By Advocate Sri Anupam Shukla )

Versus

1. Union of India through Postmaster General,  
U.P. Circle, Kanpur

2. Superintendent of Post Offices, Fatehpur  
Division, Fatehpur

3. Director, Postal Services, U.P. Circle,  
Kanpur - 208001 - Respondents

( By Advocate Sri N.B.Singh)

ORDER

( By Hon'ble Dr. R.K.Saxena, JM)

The applicant, Awadh Narain Tripathi has approached the Tribunal seeking the quashment of the impunged orders of punishment awarded by the Disciplinary Authority on 29.10.87 (Annexure - 8), and order dated 22.3.88 passed by the Appellate Authority rejecting the Appeal (Annexure-10).

2. The facts as are given by the parties are that the applicant was working as Postal Assistant at Fatehpur Post Office in the year 1987. The Post Master, Fatehpur, was ordered to relieve one reserve postal assistant attached to his Office for deputation to Asothar's Sub-Post Office.

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This order was sent on 1.9.87 and reminder on 7.9.87. The reason for relieving the Reserve Assistant was that one SriRaj Bahadur, Sub-Post Master, Asothar had submitted a medical certificate of illness with effect from 1.9.87. The Reserve Assistant, Postal Assistant was to go to Asothar to relieve the said Sub-Post Master. The Reserve Postal Assistants, according to the Respondents, are meant for deputation in leave arrangement in the Department. It is said that when the order to relieve the Reserve Postal Assistant was received, one Sri R.C.Shukla was ordered to be relieved. Sri R.C.Shukla signed the order but he did not prepare the charge report. Instead of going to Asothar, he submitted medical certificate of his illness. The other man as Reserved Postal Assistant was the applicant. Apprehending an order in his name for relieving the Sub-Post Master, Asothar, he also submitted medical certificate in anticipation, in order to avoid the said deputation. The result was that nobody was left to go to Asothar where the Sub-Post Master was actually in urgent need of being relieved. The submission of medical certificate at such a juncture was viewed seriously and it was considered lacking devotion to duties. The applicant, was, therefore, proceeded under Rules 16 of C.C.A. Rules 196. The enquiry started and the order of minor penalty of with-holding one increment for two years without future effect was passed by the Disciplinary Authority vide (Annexure-8). The applicant preferred Appeal (Annexure-9) which was considered and rejected by the Director, Postal Services vide order (Annexure-10)

3. Feeling aggrieved by these orders, this O.A.

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....3.

has been preferred on the grounds that the orders passed by the Respondents were illegal, void, perverse and violative of Article 14. It is also pleaded that orders were passed in violation of the directive principles of State and with malafide intention. Therefore, their quashment is sought.

4. The Respondents contested the case and pleaded that the orders passed by the Disciplinary Authority as well as by the Appellate Authority, were quite legal and no interference is required. It is contended that the applicant submitted the medical certificate for leave so that he may not be ordered to go to Asothar to relieve the Sub-Post Master there. It is, therefore, contended that there is no merit in the case.

5. The applicant filed Rejoinder reiterating the facts which were already mentioned in the O.A.

6. We have heard the Learned Counsel for the applicant and the Respondents. The record is also perused. The Learned Counsel for the applicant argues that there is no evidence in support of the charge and thus the imposition of penalty which was up-held in Appeal, was factually and legally incorrect. The contention of the Learned Counsel for Respondents is that the applicant had submitted medical certificate in order to avoid to go to Asothar for relieving the Sub-Post Master there. It has been pointed out that there were Reserve Assistants and when one was ordered to go, he sent the medical certificate. Other Reserve Postal Assistant, who is the applicant himself, apprehended of his being asked to go to Asothar. He, therefore, submitted

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the medical certificate in anticipation. These factual things cannot be appreciated in the Judicial Review. For the purpose of reappaisal, only the Departmental Authorities are competent. We are not sitting in Appeal and, therefore, we cannot trespass into this arena. Thus the argument carries no weight.

6. It is also argued that for one and the same kind of fact, the applicant has been chosen and was punished. We put a question to the Learned Counsel for applicant, if he was in a position to point out any illegality or irregularity in the procedure and he failed to do so. Unless any illegality of procedure is shown and established or the Disciplinary Authority having taken a perverse view is shown, the Tribunal cannot interfere even in the punishment. Thus we do not see any merit in the case. The O.A. is dismissed. No order as to cost.

*D. B. Ganguly*

MEMBER (A)

*D. Bhattacharya*

MEMBER (J)

BJ