

CENTRAL ADMINISTRATIVE TRIBUNAL
GENERAL SECT.

WATTA, D.

O.A.No./T.A.No. 618

OF 1989

DATE OF DECISION 12/9/96

Raj Kumar ----- APPLICANT (S)

Sri RN Sharma & Sri SC Dwivedi
----- ADVOCATE FOR THE
APPLICANT (S)

V E R S U S

Union of India and Ors
* * ----- RESPONDENT(S)


Sri Ashok Mohiley
----- ADVOCATE FOR THE
RESPONDENT(S)

C O N T A I N I N G

The Hon'ble Mr. S. Das Gupta, A.M. Vice Chairman
----- Member ()

The Hon'ble Mr. T.L. Verma, J.M.
----- Member ()

1. Whether Reporters of local newspapers may be allowed to see the judgment?
2. To be referred to the Reporter or not? ~~Yes~~ X
3. Whether their Lordships wish to see the fair copy of the judgment? X
4. Whether to be circulated to all other Bench? X


(SIGNATURE)

M. Mohotra/-

RESERVED

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
ADDITIONAL BENCH AT ALLAHABAD

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Allahabad : Dated this 12th day of ^{September} August, 1996

Original Application No. 618 of 1989

District : Meerut

CORAM:-

Hon'ble Mr. S. Das Gupta, A.M.

Hon'ble Mr. T.L. Verma, J.M.

Raj Kumar S/o Sri Sukhan Lal,
R/o Village & Post-Jangethi, Distt-Meerut.

(By Sri RN Sharma & Sri SC Dwivedi, Advocate)

. Applicant

Versus

1. Senior Post Master,
Meerut.
2. P.M.G. U.P. Circle,
Lucknow.
3. The Director Postal Services,
Dehradun Region
4. Director General Post, New Delhi.
5. Union of India through the Secretary
Post Services, New Delhi.

(By Sri Ashok Mohiley, Advocate)

. Respondents

ORDER

By Hon'ble Mr. S. Das Gupta, A.M.

This OA filed under Section 19 of the Administrative Tribunal Act, 1985, is directed against an order dated 9-7-1988 and the appellate order dated 5-4-1989 by which the penalty imposed by the disciplinary authority was confirmed. The applicant has sought quashing of both these orders and has prayed that the respondents be directed to take the applicant back in service with all consequential

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benefits including emoluments for the period he was removed from service.

2. The applicant was working as an Extra Departmental Delivery Agent (EDDA for short) to which post he was appointed on 10-5-1976. He was served with a charge memo dated 21-12-1987 under Rule 8 of EDA (Conduct and Service) Rules 1964. There were four article of charges. The first two charges related to wrong^{nm} payment of money orders. The third article of charge related to loss of money orders and other postal articles while the fourth article of charge related to his refusal to hand over charge ~~of~~^{after} being put off duty. An inquiry into the charges was held. The Inquiry Officer found the first article of charge as proved. As regards article of charge 2, he did not come to a definite conclusion whereas he found article of charge 3 partly proved. The article of charge 4, however, was not found to have been established. The disciplinary authority considered the report of the Inquiry Officer and partly agreed and partly disagreed with the findings. He issued the impugned order dated 9-7-1988 imposing^g the penalty of removal from service. The applicant filed an appeal, which was rejected by the appellate authority by the impugned order dated 5-4-1989. The applicant thereafter filed this OA seeking the relief abovementioned. The applicant's case is that the Inquiry Officer has not served on the applicant necessary documents at the time of inquiry such^{as} copies of the statement of allegations alongwith a list of witnesses in support thereof. He was also not ~~being~~ given a copy of the inquiry report, he has alleged. The other plea is that the inquiry was conducted in violation of the principles of natural justice and the charges were not proved by evidence. His further case is that ~~brief~~^{brief} submitted by him after the inquiry was not considered by the disciplinary authority. As regards appellate order, the applicant's plea is that the appeal was not considered by

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the appellate authority.

3. The respondents have filed a counter affidavit contesting the pleas advanced by the applicant giving a background of the disciplinary proceedings against the applicant. The respondents have stated that the charge sheet was served on the applicant alongwith the statement of imputation and list of documents ^{and} ~~of~~ witnesses. ~~by~~ the memo dated 21-12-1987 which was duly received by the applicant. A thorough inquiry into the charges were held in which the applicant was given adequate opportunity to defend himself and one of the charges relating to wrong payment of money order was fully established whereas another charge regarding loss of postal articles was partly established. The disciplinary authority had given careful consideration to the findings of the Inquiry Officer and recorded his own findings in ~~the~~ impugned order. The appellate authority also carefully considered the appeal and thereafter rejected the same. ~~In the rejoinder affidavit~~

4. In ~~the~~ rejoinder affidavit the applicant has come out with an allegation that the complaint made against him regarding wrong payment of money order was as a result of pressure of some higher authority, namely, Khem Chand who wanted to appoint his own son in the place of the applicant. The rest of the averments are mainly his own assessment of evidence on record. He has also reiterated that the charge sheet was given to him without annexing any document and that the inquiry was not conducted according to the rules denying him adequate opportunity to defend himself. He has further alleged that the witness produced before the inquiry had given statement at the dictate of Sri K.K. Tripathi. It is alleged that certain inquiries are pending against Sri K.K. Tripathi, who had ^{demand} ~~taken~~ Rs.1000/- from the applicants and since the latter declined, he was entangled in the disciplinary case.

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5. The respondents have filed a Supplementary Counter Affidavit in which it has been denied that the complaint regarding non-payment of money order was made due to the pressure of Sri Khem Chand, who is the Sub Account Clerk. As regards Sri K.K. Tewari, the respondent has stated that the case was filed by CBI against him on an incident of March, 1987, whereas the preliminary inquiry by Sri KK Tripathi was conducted much earlier. The respondents have reiterated that the allegation of the applicant that the charge sheet was ^{without} ~~with~~ the annexures is absolutely baseless.

6. In a Supplementary Rejoinder Affidavit, the applicant has reiterated the allegations that some official of the department had falsely implicated him in the disciplinary matter in order to remove him from service.

7. We have heard learned counsel for both the parties and perused the record carefully.

8. The plea taken by the applicant that the principles of natural justice were violated in holding inquiry is totally vague. He has not given any specific instance which would go to show the manner in which he was denied adequate opportunity to defend himself. In the absence of any specific detail, we are unable to accept this contention of the applicant. As regards the plea that the annexures were not given along with the charge sheet, the respondents have specifically denied this allegation both in their counter affidavit and suppl. counter affidavit. The applicant has not annexed any letter which he would have addressed either to the disciplinary authority or to the Inquiry Officer regarding non-receipt of the annexures. We have gone through the brief submitted on behalf of the applicant by his Defence Assistant after the conclusion of the inquiry. There is not a whisper in this brief that the annexures were not supplied. In the memo of appeal also, there is no

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allegation that he did not receive such annexures alongwith the charge sheet. In view of this, we ~~would~~ have no hesitation in rejecting this plea of the applicant.


9. We now come to the more substantive ground taken by the applicant that the charges against him are not proved on the basis of evidence on record. It is relevant to state here the Tribunal does not function as an appellate authority and, therefore, cannot substitute the findings of the Inquiry Officer by its own findings on a reassessment of evidence. The Tribunal only can interfere if the findings appear to be totally perverse on the basis of evidence or appear to be based on no evidence. We have carefully gone through the copy of the inquiry report annexed to the counter affidavit. We find no perversity in the findings of the Inquiry Officer. There is also evidence on record in respect of findings. We, therefore, see no reason for interference..

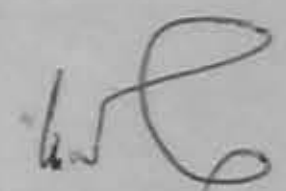
10. The Inquiry Officer has found the first article of charge which related to non-payment of the money as fully established. This along ^{is} a serious charge on ^{the} part of a postal employee whose duty it was to deliver the money to the appropriate recipient. The penalty imposed certainly is not disproportionate to the gravity of the charge. The second article of charge which also related to non-payment of money order was not conclusively proved according to the Inquiry Officer. The disciplinary authority has not agreed with this finding and recorded his reason for its dis-agreement. The third article of charge has been partly proved and disciplinary authority has agreed with the Inquiry Officer. He has, however, disagreed with the finding of the Inquiry Officer as regards fourth article of charge and has indicated reasons why he considered the charge as established while the Inquiry Officer did not find the charge as proved. The disciplinary authority

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has every right to disagree with the findings of the Inquiry Officer. He, however, has to record his reasons for disagreement. In this case, the disciplinary authority has clearly recorded reasons for disagreement with some of the findings of the Inquiry Officer. Even disregarding the charges on which there is disagreement between findings of the Inquiry Officer and those of the disciplinary authority, the remaining charges on which there is no disagreement are alone sufficient to warrant penalty of dismissal. We, therefore, find no reason to interfere on this count.

11. In view of the foregoing, we find no merit in the application. The same is dismissed accordingly. There shall, however, be no order as to costs.


Member (J)


Member (A)

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