

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD.

Original Application no. .. 459 of 1990
Transfer Application no. _____

Date of Decision 24.12.96

CHANDRA BHAN MISHRA.

Petitioner

C/R: Sri R.C.Sinha, and Sri R.K.Jain.

Advocate for the
Petitioner

VERSUS

UNION OF INDIA through the

Respondents.

Director of Postal services,
Kanpur and another.

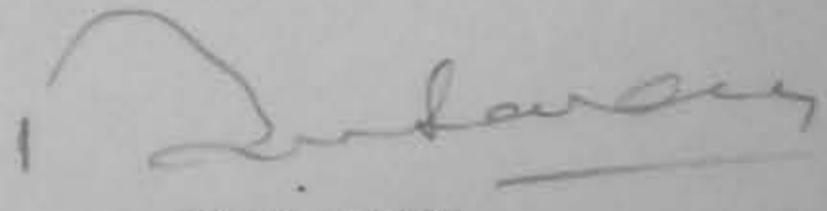
Advocate for the
Respondents.

C O R A M

Hon'ble Mr. Dr. R.K.Saxena, JM.

Hon'ble Mr. S.Dayal, A.M.

1. Whether Reporters of local papers may be allowed to see the judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordship wish to see the fair copy of the judgement ?
4. Whether to be circulated to all Bench ?


SIGNATURE

PIYUSH/

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Reserved.

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD.

...

Dated This the 26th December, 1996.

CORAM: Hon'ble Dr.R.K.Saxena, JM.
Hon'ble Mr S. Dayal. AM.

Original application No: 459 of 1990.

Chandra Bhan Misra, son of
Sri Guljari Lal, resident of
Sibaokhas, Tehsil: Kaiyamganj,
district: Farrukhabad. .. Applicant.

CA/ P.C.Sinha & R.K.Ajan:
versus:

1. UNION OF INDIA through the
Director Postal Services,
Kanpur.

2. Superintendent of post offices
Fatehgarh, district:
Farrukhabad.

... Respondents.

CR/Sri N.B.Singh.

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ORDER:

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

The applicant-Chandra Bhan Misra, has approached this Tribunal with the prayer that the order dated 12.7.1988 (annexure-V) passed by the Tribunal, and the Order dated 23.8.1989 passed by the Appellate Authority be quashed and the applicant be reinstated with all the benefits.

2. The facts which have been brought in the pleadings of the parties are that the applicant was working as Branch-Postmaster, Siwaiakhas Br. Post office. He was involved in the embezzlement of recurring deposit amounts of the Account Numbers 33136, 305399 and 33135. The embezzlement came to notice in the year 1981 and therefore, he was put off duties vide Order dated 23.11.1981. An enquiry was held, but because the applicant had tendered an apology, he was warned and ordered to be taken on duty. It appears that before the orders could be implemented, another case of embezzlement of Rs500/- came to notice. A complaint was made by one Sri Harpal Singh. It appears that the said Sri Harpal Singh, had two Savings Bank Accounts Nos:—1003152 and 3005220 in the post officer where the applicant was working. On 30.5.1981, the depositor Sri Harpal Singh, gave an amount of Rs500/- to ^{be} deposited in his Saving Bank Account. The applicant who was working as Branch-Post Master took the said amount of Rs500/- and made an entry in the pass-books. The stamp of the

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post office stamp of the post office was also fixed on the said amount of Rs500/- but was not shown in the Govt. Account. Thus, he embezzled the said amount. The result was that he was not allowed to resume duties and Charge sheet was served on him. Usual enquiry proceeded. On the completion of the enquiry, a report was submitted. The Disciplinary Authority after considering the report in which, the charges were found established passed the impugned order on 12.7.1988 and removed the applicant from service. The order was challenged in the appeal, but the same was also rejected vide Order dated 23.8.1989 (annexure A-7). Feeling aggrieved by the said order, this O.A. with the aforesaid relief's filed.

3. The respondents have contested the case and supported the orders of punishment passed by the Disciplinary Authority as well as, the orders passed by the Appellate Authority. It is also pointed out that the applicant had committed embezzlement for which, he was warned. He however, remained without duties and before he could resume duties, another case of Sri Harpal Singh came to the light in which, the order for resuming the duties was kept in abeyance.

4. According to the respondents, the case was registered with the police which investigated to submit a final report. The applicant was however, served with the Charge-sheet and after enquiry was conducted, the charges were found established and he was removed from service by disciplinary Authority. The appeal preferred against the order of removal was also rejected. The respondents

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contended that the orders passed by the Disciplinary Authority as well as, by the Appellate Authority were perfectly legal.

5. The applicant filed rejoinder and reiterated the facts which were mentioned in O.A.

6. We have heard the learned counsel for the parties and have perused the record. The contention of the learned counsel for the applicant is that in this case of the alleged embezzlement, the investigation was done by the police and ultimately, final report was submitted. It is therefore, urged that there was no justification to have departmentally proceeded against the applicant. We are not convinced with this argument. Even if criminal case has been started and delinquent employee was acquitted the employer was competent to proceed with the employee departmentally, if the facts and the circumstances so warranted. Thus, mere ~~saying~~ that the police has submitted final report, will not make the employee incompetent to ^{be} ~~proceed~~ with departmentally. Thus, the plea taken by the applicant ~~never~~ ^{does not} remains tenable. It has been pointed out that the applicant had sought change of the enquiry officer, but no valid reasons could be shown to us. If the applicant fails to establish that the Enquiry officer was prejudiced, or biased mere asking to change the enquiry officer, is neither legal, nor valid. Thus, We do not find any force

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in this plea as well.

7. The contention of the learned counsel for the applicant is that his defence evidence was not taken into consideration and for this reason, he wanted to argue that the statement of defence witnesses were unsigned. Even if the statement is not signed by the witnesses and the said deposition is not controverted, it will not mean that no such statement was made. Besides, mere pointing out that the unsigned statement was ~~there~~ it would not lead to conclusion that the said statement was not taken into consideration. This ground too is of no help to the applicant.

8. It is also argued that there was no sufficient evidence to reach ~~to~~ the conclusion that the charge was established. As a matter of fact, there is no scope of reappraisal of evidence in a judicial review. Therefore, this argument is not valid. The Departmental Authorities are the best judges for the purpose. The Disciplinary Authority had concluded that the applicant had received the amount of Rs500/- and made entry in Pass Book of Sri Harpal Singh, but the said amount was not shown credited in the Account of the Post-office. In our opinion, such facts and circumstances cannot easily be belied. Thus, ² we do not see any infirmity in the orders passed by the Disciplinary Authority as well as, by the Appellate Authority.

9. Having considered the facts and the circumstances of the case, we come to the conclusion that there is no merit in the case. Therefore, the O.A is dismissed. No order as to the costs.

Amrit P. Dandwate
A.M. J.M.