

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 01 day of November, 2000.

Coram:- Hon'ble Mr. Rafiq Uddin, Member-J.
Hon'ble Mr. S. Biswas, Member-A.

Orginal Application No. 1613 of 1992

Arun Kumar Tripathi, S/o Sri Triveni Prasad Tripathi
R/o Village and Post Khairabad, (Maunath Bhanjan),
Distt. Azamgarh.

..... Applicant.

Counsel for the applicant:- Sri K.K. Tripathi

V E R S U S

1. Union of India through Director,
General Department of Post, New Delhi

2. Chief Post Master General, U.P
At Lucknow

3. Post Master General, U.P At Lucknow.

4. Senior
Post Offices, Distt. Azamgarh.

5. Director Postal Services, Gorakhpur Division,
Gorakhpur.

..... Respondents.

Counsel for the respondents:- Km. Sadhana Srivastva

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O R D E R (oral)

(By Hon'ble Mr. Rafiq Uddin, J.M.)

The applicant, who was working as E.D.B.P.M at the relevant time has been removed from the service vide impugned order dt. 30.12.89 (annexure A-2 to the O.A) passed by the Senior Superintendent of the Post Offices, Azamgarh (respondent No. 4) after holding the departmental enquiry. The appeal ~~held~~ by the applicant against the aforesaid punishment order has also been rejected by the appellate order dt. 20.08.90 (Anx. A-3). The applicant filed revision before the revising authority namely Chief Post Master General, U.P. (respondent No. 2) which has also been rejected vide order dt. 04.02.1992 (annexure A-1 to the O.A). By means of this O.A the applicant has sought for quashing of this order and a direction to re-instate the applicant with arrears of salary.

2. Briefly stated the facts of the case are that a charge-sheet was served on the applicant allaging that ~~the~~ firstly, applicant while working as E.D.B.P.M failed to deposite the sum of Rs. 205/- . Secondly he did not deposite the sum of Rs. 250/- in the Government account received from Smt Durgawati Devi. Thirdly the applicant did not deposite the sum of Rs. 185 of B.P pack No. 670 dt. 03.08.85 for Rs. 185/- in the B.P Register after receiving the sum of Rs. 190.70/- from the receiver. The applicant also failed to deposite the said amount in the Government account. The applicant filed his explanation to the aforesaid charge-sheet. The enquiry was conducted by the enquiry officer who after completing the enquiry ~~held~~ that the charge No. 2 is established but exonerated the applicant in respect of charge Nos. 1 and 3. The disciplinary authority however, on the basis of findings

of enquiry officer and his report the applicant vide order dt. 23.01.89. The appeal as well as revision filed against this order has also been rejected.

3. We have heard Sri K.K.Tripathi, learned counsel for the applicant and Km. Sadhna Srivastava, learned counsel for the respondents.

4. Learned counsel for the applicant has not pointed out any defect in the procedure of conducting the disciplinary proceedings against the applicant. It has

however, been pointed out that by him on the basis of same allegations a criminal case No. 562/97 was instituted against the applicant U/S 409 of I.P.C based on F.I.R lodged against him on behalf of the department. The criminal court vide judgment/ order dt. 31.08.98 has acquitted of the charge. A copy of the judgment has been filed by the applicant. On the basis of the order of the criminal Court learned counsel for the applicant has urged that applicant can not be held for misappropriation of the amount in question. ~~xxxxx~~ The findings of the enquiry officer should set aside because the same set of the witness appeared before the criminal court and denied the involvement of the applicant. Whereas disciplinary authority has formed ~~based~~ his conclusions on the basis of their evidence during the departmental enquiry. ~~xxxxx~~ However, we do not find any force in this argument because the perusal of the enquiry report clearly indicates that the applicant had also failed to deposit the amount received from Smt. Durgawati Devi in the Government account ~~000000~~ within time. ^{which} The applicant himself deposited the amount of Rs. 205/- subsequently in the govt. account.

4. It has been next contended by the learned counsel for the applicant that considering the fact that there is an

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allegation of misappropriation of small amount of Rs. 205/-, the punishment awarded to the applicant is excessive and in view of the acquittal of the applicant by criminal court the matter requires re-consideration. But the matter regarding award of punishment can be considered only by the administrative authority. This Tribunal can not enquire into the question of quantum of punishment. ~~But~~ since the applicant has been acquitted by the criminal court after the punishment was imposed by the disciplinary authority, we find it desirable that matter may be considered by the Appellate Authority afresh

5. We accordingly partly allowed the C.A with the direction to the respondent No. 5 to consider the representation, if any, made by the applicant before him within a month on the question of quantum of punishment only. The representation will be disposed of within three months by the respondent No. 5

6. There will be no order as costs.

S. Ch.

Member - A.

R. V. Mehta

Member - J.

/Anand/