

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

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Allahabad : Dated this 17th day of February, 2000

Contd.....

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Original Application No. 34 of 1992

COURT :-

Hon'ble Mr. Rafiuddin, J.M.

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

Bhagwat Pathak S/o Shri Ram Pratap Pathak,
R/o Vill & Post Itwa Kungai, via Pakauliya,
District Basti.

(Sri P.K. Mishra, Advocate)

.....Applicant

versus

1. Union of India through Ministry of Post & Telegraph.
2. Post Master General, Gorakhpur Region, U.P. Circle, Gorakhpur-273012.
3. Director of Postal Services, Office of Post Master General, Gorakhpur Region, Gorakhpur.
4. Superintendent of Post Office, Basti Division, Basti.

(Sri S.C. Tripathi, Advocate)

.....Respondents

ORDER (O_r_a_1)

By Hon'ble Mr. Rafiuddin, J.M.

The applicant approaches this Tribunal for quashing the orders dated 24-7-1990, 27-9-1990 and 23-10-1991 passed by the respondent nos.4, 3 and 2 respectively and to reinstate the applicant on the post of Itwa Kungai, Basti with full back wages. The applicant has further sought a direction to the respondents to return the amount of Rs.5300/- alongwith the interest to the applicant.

2. The applicant at the relevant time was posted as EDBPM, Itwa Kungai, district Basti. The applicant has

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been dismissed from service vide order dated 27-9-1990 passed by the Superintendent of Post Offices, Basti, respondent no.4. The Appeal filed by the applicant against his dismissal order has also been dismissed vide order dated 31-5-1997 by the Director Postal Services, Gorakhpur, respondent no.3. The Revision filed by the applicant has also been dismissed vide order dated 23-10-1991 by the Post Master General Gorakhpur, respondent no.2.

3. It appears that a charge sheet alleging that the applicant has misappropriated a sum of Rs.200/- from SB Acct No.1250492, Rs.2000/- from SB Acct No.1250359, Rs.4000/- from SB Acct No.1251081 by altering figures of the entry. The applicant was further charged for committing mischief by tampering with the contents of the various insured letters, details mentioned in the charge sheet. The applicant was also charged for detaining insured letters from 24-11-1988 to 27-11-1988 ^Rintentionally when the addressee had already expired. No satisfactory explanation was given by the applicant. The applicant also voluntarily credited the amount of loss of Rs.5300/- on 21-6-89 which shows his doubtful conduct. The departmental enquiry was conducted on the basis of report submitted by the Inquiry Officer ^R the impugned order of dismissal from service dated 27-9-1990 was passed against the applicant.

4. The applicant has contended in his OA that the Inquiry Officer was of the opinion that the Charge No.1 is not proved against the applicant and the disagreement shown by the disciplinary authority ^R ~~is disciplinary~~ ^{Pr} authority is manifestly illegal. The applicant has also challenged the correctness of the other findings on other grounds to justify his conduct. As regards Charge No.2., it has been contended that ^R the date mentioned in the ^{Sunday} charge sheet being, not transaction was possible, which happened to be a holiday and Charge no.2 is also not

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proved against him. The applicant has contended that Charge No.3 is of general nature and even the Inquiry Officer concluded that the same was partly proved but the disciplinary authority as well as other two higher authorities have erroneously held the applicant liable for that charge. Besides, when the main charge i.e. Charge No.1 was not proved by the Inquiry Officer, the other charges are of insignificant nature. Hence, the applicant has been punished without any evidence.

5. The respondents on the other hand in their counter affidavit have stated that if evidence on record proved the charge against the delinquent officials, the disciplinary authority is well within its right to disagree with the finding of the disciplinary officer. In the present case it was fully established from the evidence on record and from the conduct of the applicant that he misappropriated Rs.15,300/- from various SB Accounts. A proper departmental enquiry was conducted against the applicant and there was no violation of any rules as claimed by the applicant. The conduct of the applicant also shows that he is guilty because at his own accord he credited loss of Rs.5300/- on 21-6-1989 without having received any direction or order from the authority to do so. Obviously, the act committed by the applicant was of serious nature which effects his honesty and ^{R retention} integrity and ~~reduction~~ of the applicant in the department in any way was not improper.

6. We have heard Sri S.C. Tripathi, counsel for the respondents and perused the record.

7. At the outset it is pertinent to mention here that the scope of judicial enquiry in respect of dept. proceedings is very limited. The Tribunal does not act

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as Appellate Authority. The findings of the Inquiry Officer or the conclusion drawn by the disciplinary authority can be challenged if it is a case of no evidence or there was some irregularity in conducting enquiry. The applicant has not alleged any breach of fairplay or injustice or any malafide on the part of the departmental authorities in conducting the enquiry.

8. We do not find that it is a case of no evidence because from the perusal of the enquiry report it is evident that the Inquiry Officer as well as the disciplinary authority has considered the evidence while drawing their own conclusion and giving findings against the applicant.

9. In view of the facts and circumstances of the case, we do not find any justification to interfere with the findings of the authorities. The OA has no merit and deserves to be dismissed. Accordingly, the OA is dismissed with no order as to costs.

S. B. Dube / R. P. V. Reddy
Member (A) Member (J)

Dube/