

Central Administrative Tribunal,
Allahabad Bench, Allahabad.

Dated: Allahabad, This The 25th Day of May, 2000.

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

Hon'ble Mr. Rafic Uddin, J.M.

Original Application No. 348 of 1992.

Sri Mahesh Kumar Tiwari,
son of Sri Rama Shankar Tiwari,
Resident of village and post Fur
Pargana Sikandarpur (East)
Distt. Ballia.

. . . Applicant.

Counsel for the Applicant: Sri Virendra Kumar, Adv.

Versus

1. The Union of India through the Director General,
Post & Telegraphs, New Delhi.
2. The Director Postal Service, Allahabad Region,
Division Ballia.
3. The Superintendent of Post Offices, Ballia Division,
Ballia.

. . . Opp. Parties.

Order (Open Court)
(By Hon'ble Mr. S. Dayal, Member (A))

This O.A. has been filed for direction to the respondents to treat the applicant in service as Extra Departmental Branch Post Master, Fur, Distt. Ballia and pay him the pay and allowances. The applicant also seeks setting aside of impugned order dated 6.8.90. By this impugned order the applicant has been removed from service.

2. The applicant has claimed in his O.A. that he was selected and appointed as E.D.B.F.M. Fur, Distt.

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Ballia and he took over charge with effect from 9.1.80. He was put off duty on 21.4.80. His services were terminated by order dated 4.5.81. He filed a writ petition but during the pendency of the writ petition the Opp. parties recalled the order dated 4.5.81 on 14.7.82. The applicant was, however not taken into service but was put off retrospectively with effect from 4.5.81. The applicant was taken back in service on 25.2.86. He was again put off on 19.11.87. He was put back in service on 18.8.88. A chargesheet was served on him on 17.2.89 and the applicant claims that he was not given proper and ample opportunity to defend himself and on the basis of more or less exparte enquiry report, the imquined order was passed. The applicant preferred an appeal on 10.8.90 but the same has not been disposed of as yet. Notices were issued in this case on 20.3.93 but no appearance has been made on behalf of the respondents.


3. The applicant has filed this application on the ground that he was not provided a copy of the enquiry report in order to file representation against the enquiry report to the Disciplinary Authority. It is also contended that the Disciplinary Authority has not applied its mind and that the Disciplinary Authority had accepted the Enquiry Officer's report mechanically and passed orders without application of mind. The applicant has also stated that the respondents have failed to dispose of his appeal.

4. None appeared for the parties, hence we are decided this case on the basis of the record and pleadings in the case file.

5. The order of the disciplinary authority dated 06.08.1990 shows that it was passed after departmental inquiry in which 9 witnesses who were recipient of money orders were examined. The disciplinary authority has analysed the evidence and after that analysis as come to the conclusion imputation No.1 and imputation No. 2 stood established and the penalty has been imposed only after such analysis.

6. The applicant has claimed that a copy of the inquiry report has not furnished to him along with show cause in order to give a representation against the same. The date of inquiry was 06.08.1990 and the law laid down by the Apex Court regarding supply of inquiry report ^{in Ramzan Khan's case} (1990-2 SCALE 1094) came into effect in November 1990 (1992 Suppl.2 SCC 269) and hence, the non supply of inquiry report at that stage does not vitiate the inquiry. There are no other grounds on which the relief has been claimed which merit consideration. The applicant was provided with adequate opportunity to defend himself. The applicant was supplied with a defence assistant as mentioned in the order of punishment. His claim that inquiry was 'almost' ex-parte is not born out by facts on record. In any case the applicant has not been able to establish any procedural flaw which could have prejudiced his defence. Hence, this O.A. is dismissed as lacking in merit.

There shall be no order as to costs.


Member (J)


Member (A)