

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH.

O.A.No.555 of 1992

Udai Bhan Singh-I.....Applicant.

Versus

Union of India & others .....Respondents.

Hon'ble Mr.Justice U.C.Srivastava,V.C,

Hon'ble Mr.K.Obayya,A.M.

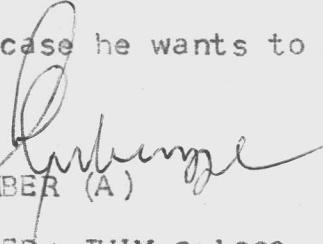
(By Hon'ble Mr.Justice U.C.Srivastava,V.C)

The applicant was posted as Misc.Postal Assistant at the relevant time i.e. 15.7.85 to 10.2.86 in Allahabad Head Post Office to perform the duties of Misc. Postal Assistant. He was served with charge sheet dated 31.8.88 making allegations with regard to four article of charges by which it was alleged that at the relevant time i.e. 15.7.85 to 10.2.86 while working as Misc.Postal Assistant at Allahabad Head Post Office, he has contravened the provisions of Rules 543(9) and 543(10) of P & T Manual Vol.VI part II and thereby violated the provisions of Rule 3(1) (i) and 3(1) (iii) of CCS(Conduct) Rules,1964. Precisely the charge against the applicant was that he did not verify the commission bills submitted by NSC agents properly and did not make entries of payment in ledger of NSC agents. He also did not watch the irregular and forged NSC commission bills to fake agents. He also managed to prepare money receipts on the number of fake agents and managed their payment. This resulted fraudulent payments of N.S.C. commission to the tune of Rs.6,65,693.60P to the fake agents. The applicant denied the charge. An Enquiry Officer was appointed and the Enquiry Officer conducted the enquiry. The Enquiry Officer after holding enquiry submitted his report to the Disciplinary Authority on 18.7.90.

He held that charges no.1 and 2 were partly proved and charge no.3 was proved and charge No.4 was not proved. According to him, in absence of the relevant receipts and the receipts on which the payment was made from City Post Office, it cannot be said that the receipts were prepared by the applicant and that the relevant evidence was not produced by the prosecution. The applicant made a representation against the Enquiry Officer's report regarding the findings recorded against him but the Disciplinary Authority, it appears, agreed with the Enquiry Officer and awarded a penalty of reduction of pay scale from 1150-975 to 975-660 for five years with cumulative effect. Against the said order, the applicant preferred a departmental appeal before the respondent no.2 and the respondent no.2 ~~yet~~ appears, vide his letter dated 7.8.91 issued an enhancement notice without disclosing any reason as to how he disagreed with the Enquiry Officer's report. The applicant filed objections against the same. The Appellate Authority vide his order dated 9.3.92 enhanced the penalty and passed the order for dismissal from service against the applicant. Feeling aggrieved with the said order, he approached this Tribunal.

2. On behalf of applicant, two contentions were raised. The first contention was that the Appellate Authority could have issued an enhancement notice within a period of six months of the order sought to be revised as provided under Rule 29(v) of CCS(CCA) Rules, 1965 and thus there is violation of rule 29(v) of CCS(CCA) Rules, 1965. The appellate

Authority issued the enhancement notice to the applicant on 1.8.91, meaning thereby beyond the period of six months as provided under rules. As such the appellate authority was not authorised to issue enhancement notice beyond the period of six month as prescribed. The second contention, which was raised, is that if the appellate authority disagreed with the findings recorded by the Disciplinary Authority, giving of reasons for the same was a must. In this case, no reason for disagreeing with the findings recorded by the Disciplinary Authority was given which violates the principle of natural justice and as such the appellate authority had no jurisdiction to issue the enhancement notice beyond the period of six months and further without assigning any reason for disagreeing with the findings recorded by the Disciplinary Authority. Accordingly, the application is allowed and the order dated 9.3.92 and 31.8.90 are quashed. No order as to costs. However, it will be open for the disciplinary authority to issue a show cause notice to the applicant and give him an opportunity to file the representation against the same, in case he wants to go ahead with the proceedings.

  
MEMBER (A)

  
VICE CHAIRMAN.

DATED: JULY 3, 1992.

(ug)

3.7.92

Hon'ble Mr. Justice U.C.Srivastava, V.C.

Hon'ble Mr.K.Obayya, A.M.

In this case, on 28.4.92, show cause notice was issued to the respondent to the effect as to why the case may not be admitted and the time for filing reply and rejoinder was granted fixing 15.5.92 for admission/hearing. On 15.5.92, no reply was filed and no one was present and the case was again listed on 3.7.92. In between the said period, the case was taken up on 19.5.92 for interim relief but on that date also no one was present. Even today no one is present and the department has also not filed any reply. Accordingly, the case is being heard and disposed of finally.

  
A.M.

  
V.C.

(ug)